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MANUAL OF FRENCH PRACTICE

MANUAL *of* FRENCH PRACTICE
for
Accountants and Auditors

BY
W. H. HARGRAVES, A.C.A.
AND
GEORGES DAUMAS
Avocat à la Cour d'Appel, Paris,
and of the Middle Temple,
Barrister at Law.

With
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relating to Accounts,
Partnerships and Companies

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PREFACE

In view of the increasing numbers of professional, English speaking accountants whose duties lead them occasionally or permanently into practice in France, in new conditions, and under laws which differ widely in many respects from those which govern their work in their home countries, the Authors venture to submit the present work in the hope that it may prove to many a compact Vade-Mecum which will assist them over many initial difficulties arising in the course of their professional occupations in France.

Paris, December 1929.

W. H. H.
G. D.

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INTRODUCTION TO PART I

In introducing the reader to Part I of this short work, it may be useful to set down a few general observations as to the extent of the foreign accountant's sphere of activity in France.

The British or other foreign professional accountant whose vocation has led him to practise in France finds himself excluded from many of the duties which occupied him at home, the laws of France reserving such duties exclusively for registered experts and specialists of French nationality attached to the Courts, or members of corporations possessing monopolies as to certain functions (e.g. notaries).

To deal with these " excluded " duties in their order, the foreign practitioner will practically never be invited to assist in matters of Executorship Accounts, Bankruptcy, Compulsory Liquidation, and rarely in Arbitration.

With regard to Executorships a wide difference exists between the status of an executor in France and that of an executor under a will in, for instance, Great Britain. In the latter country the executor, by reason of his duty of carrying out actively the directions of a will, is an administrator of the deceased's estate. In France the executor is simply a supervisor, charged with the task of seeing and ensuring that the directions of the will be duly observed. It is true that a French executor may, in certain cases, and for a restricted period, take possession of an estate, but in general the administration, liquidation and final distribution of such estate devolve directly upon the heirs or successors under the eye of the executors. The duty of compiling the inventory of the estate for the purposes of probate and death duties is confided to a notary public who, should he require skilled accountancy assistance, has almost invariably recourse to the ring of registered experts deriving their authority and prestige from their connection with the Courts.

Similarly, as to bankruptcy and compulsory liquidation, the Courts generally appoint, from the ranks of the registered experts, in the first case a *Syndic* (Receiver) or in the second, a *Liquidateur Judiciaire* (Liquidator) who reports to the commercial tribunal upon the situation of the bankrupt trader or company and who is responsible for the arrangements made with creditors (*Concordat*) and the final winding-up.

Finally, in matters of arbitration, the foreign practitioner in France cannot expect to be engaged sufficiently often to permit him to consider arbitrations as part of the *monnaie courante* of his profession. The practice of Arbitration in France is still in an embryonic state. Until the 17th July 1856 Articles 51 to 63 of the Commercial Code prescribed arbitration in cases of dispute between commercial partners. The law of the 17th July 1856 repealed these articles, however, and threw the hearing of commercial cases within the exclusive prerogative of the Courts, who appointed official arbitrators (*Arbitres-Experts*) where considered expedient. The law of the 31st December 1925, at present in force, eventually made a partial concession to the cause of private arbitration by declaring that commercial parties may, when contracting, agree to submit to arbitrators *contestations* arising, between partners, out of matters affecting the partnership and, between traders, out of purely commercial transactions. The practical result of the law of the 31st December 1925 to date is not, however, sufficiently clear to justify the opinion that private arbitration has yet become an effective part of the legal machinery of the country.

The field of activity of foreign professional accountants in France is thus reduced, for all practical purposes, to :

Commercial, Industrial and Financial Accounting.
Auditing.
Voluntary Liquidations.

In the above capacities the foreign professional accountant finds himself called upon to deal with the accounts of :

Private Traders or Manufacturers.

Private Unregistered Partnerships (*Associations en participation*).
Private Partnerships (*Sociétés en Nom Collectif*).
Financed Partnerships (*Sociétés en Commandite Simple*).
Partnerships issuing Shares (*Sociétés en Commandite par Actions*).
Limited Companies (*Sociétés Anonymes*).
Private Limited Companies (*Sociétés à Responsabilité Limitée*).

No particular reference need be made to the status of the private trader or manufacturer, while, as to partnerships and companies, a definition of each type will be found in Part I of the present work, Part II containing a reproduction in English of the statutes appertaining to partnerships and companies issuing shares.

It has been pointed out that the foreign accountant's field of activity is necessarily more restricted in France, as to the diversity of professional matters with which he is called on to deal, than in his home country. As against this it may be stated that, in his more limited field of action, his duties are widened. Most foreign accountants and particularly British accountants, who have practised for a number of years in France, find that, by reason of the distance which separates them from their clients, whether their position as regards the particular businesses which occupy their attention be styled " Auditor " or " Accountant," their real position becomes, in a deeper sense than at home, that of representatives of invested capital. In the case of French limited companies it is sometimes inconvenient that, by Article 33 of the law of 24th July 1867, the annual visit of the auditor should be confined to the three months preceding the date of the general meeting and, although boards of directors do not generally oppose a continuous audit carried out during the entire fiscal year, foreign accountants are now required more and more to undertake directorships of French companies with a view to securing closer touch with the actual management of business.

The aim of the present work is, therefore, to present to English and other foreign accountants called upon to practise in France, firstly, a commented glossary of the terms and questions which they will encounter in the course of their work and, secondly, a reproduction in English of the basic legislation as to accounts in general and as to the principal types of partnerships and companies. The object of these pages will be attained, it is thought, if, in some cases, they enable the reader to avoid aborious reference and research.

Paris, February 1929.

PART I

1. **Abonnement.** Subscription, e.g. to a newspaper, to the telephone, etc.
2. **Abonnement au Timbre.** Subscription for stamp duty : the agreement which a French company (*Société*), at its formation, may enter into with the *Enregistrement* (Taxing and Registration Department), such agreement being the alternative which French law offers to the payment in one initial sum of the stamp duty on share or stock certificates. *Sociétés* having contracted *Abonnement au Timbre* are required to discharge annually the amount of stamp duty due. Payment is made in quarterly instalments during the first twenty days of January, April, July and October of each year (*Timbre, infra*).
3. **Abus.** Abuse . . . . of confidence, of authority.
4. **Acceptation.** Acceptance (bill of exchange).
5. **Acceptation en blanc.** Acceptance in blank.
6. **Accuser réception.** To acknowledge receipt. An *accusé de réception* is an acknowledgment of receipt.
7. **Achalandage.** The customers, as a whole, of a commercial business or undertaking. *Achalandage* is a part of goodwill.
8. **Achat.** Purchase.
9. **Achat à la Baisse.** Purchase effected during a fall in price (*baisse*, fall).
10. **Achat à la Hausse.** Purchase effected during a rise in price (*hausse*, rise).
11. **Achat à prime.** Provisional purchase which the purchaser may at his discretion cancel by payment of a premium (*prime*).
12. **Achat à crédit.** Purchase on credit.
13. **Achat comptant.** Cash purchase.
14. **Achat en détail.** Retail purchase.

15. **Achat en gros.** Wholesale purchase.
16. **Achat en demi-gros.** Purchase made wholesale by dealer who re-sells in turn to his own customers. The dealer is known as a *demi-grossite*.
17. **Acquit.** Receipt, discharge.
18. **Acquit à Caution.** Provisional customs receipt which permits imported goods to be sold before payment of duty.
19. **Acte sous-seing privé.** Simple form of agreement between two or more persons, drawn up and signed by them, without the intervention of a notary.
20. **Actif.** Assets.
21. **Actif Social.** Assets of a *Société* (company).
22. **Action.** Share, of a company.
23. **Action au Porteur.** Bearer share.
24. **Action d'Apport.** Shares issued in consideration of an *apport*, i.e. otherwise than for cash. These shares are not negotiable until the expiration of two years from the date of the formation of the company; French law requires that, during such period, the certificates remain *en souche*, i.e. attached to the counterfoil.
25. **Actions** (or **Parts) de Fondateur.** Founders' shares. A special type of shares issued to founders of companies in remuneration for services, property or advantages conferred on, or brought to, such companies. These shares are entitled to a percentage of the profits of the company specified by the *statuts* (articles of association) but have no capital value.
26. **Actions de jouissance.** Participating shares, carrying the right to participate in the profits of a company, issued to the holders of shares of which the company has reimbursed or redeemed the capital value.
27. **Actions nominatives.** Nominative shares.
28. **Action Ordinaire.** Ordinary share.
29. **Actions de Préférence** (or) **Priorité.** Preference or

priority shares. These shares may be cumulative as to dividend or interest, or non-cumulative. The principles governing the "preferential" character of shares are practically the same in French and English law.

30. **Actions de Numéraire.** Shares issued for cash.
31. **Actions privilégiées.** Privileged shares. The "privilledge" may exist in the sense of priority or preference, or in superiority of voting power.
32. **Action en Nullité.** Action for annulment brought against a company illegally or irregularly formed.
33. **Actionnaire.** Shareholder.
34. **Actionnaire Commanditaire.** Shareholder of a *Société en Commandite* (*infra*).
35. **Actuaire.** Actuary.
36. **Adjudication.** Public tender (contracts).
37. **Adjudicataire.** The person or company whose tender is accepted.
38. **Administrateur.** Director. The directors of a French *Société-anonyme* are appointed by the first, or constitutive, meeting or meetings of the company, and subsequently by the shareholders in general meetings. They may be elected for a period of six years. (Law of 24th July 1867). A director's mandate, however, may be withdrawn by the shareholders at any time.

    A director may be appointed by the board in case of need or expediency, but his appointment must be submitted for ratification at the next ensuing general meeting of shareholders.

    A director must be the holder of a number of shares prescribed by the articles of association. The qualification shares are retained by the company during the director's tenure of office as security for the accomplishment of his duties. The certificates are stamped with a declaration to this effect and are held in custody at the company's registered office.

The duties and powers of a director are defined by the articles of association.

39. **Administrateur Délégué.** Managing director, or director delegated by the board to conduct the active management of the company's business. The powers and duties of the *Administrateur Délégué* are defined by the articles of association or appended to the resolution appointing him.
40. **Administration** (of a company), board of directors, consisting of the number prescribed by the articles of association, presided over by a president or vice-president. The articles of association prescribe the quorum necessary for the validity of meetings.
41. **Admission à la Cote.** Admission to the official list of the Stock Exchange. A company desirous of listing its shares files an application for *Admission à la Cote* at the office of the Compagnie des Agents de Change.
42. **Admission Temporaire.** Temporary admission (customs). Imported products or partially manufactured goods destined for re-exportation in finished state are admitted free of customs duty for a period of six months.
43. **Ad Valorem.** Ad valorem.
44. **Affidavit.** Affidavit. In France the term "affidavit" principally applies to the declaration signed by foreign holders of stocks and shares in order to obtain exemption from taxes on their operations.
45. **Affrêtement.** Ship-hire (*Charte-partie*, *infra*).
46. **Affrêteur.** Person or company hiring a ship.
47. **Agent de Change.** Member of a Stock Exchange. French *Agents de Change* are appointed by Government decree. Their monopoly and functions are specified by the Law of 2nd July 1862 (Commercial Code, Arts. 74, &c.).
48. **Agio, Agiotage.** Bank charges or commissions.
49. **Allonge.** Allonge (bills of exchange).

50. **Amende.** Fine (penal).
51. **Ameublement.** Movable furniture.
52. **Amortir. Amortissement.** The extinction of a debt or an item of assets (writing off).
53. **Analyse.** Analysis.
54. **Annuité.** Annuity.
55. **Annuité viagère.** Life annuity (*Rente viagère*, *infra*).
56. **Appel.** Appeal.
57. **Appel de Fonds.** Call on shares or stocks.
58. **Appoint.** Supplementary payment made in cash in order to liquidate completely the balance of a debt or account remaining after a previous payment.
59. **Appointements.** Salary.
60. **Apport.** Property, cash, services or advantages brought (*apporté*) to a company (*Actions d'apport*, *supra*).
61. **Arbitrage.** Arbitration.
62. **Arbitre.** Arbitrator.
63. **Argent comptant.** Ready cash.
64. **Argent courant.** Current money.
65. **Armateur.** Ship-broker.
66. **Arraisonnement.** The formalities as a whole which the captain of a ship complies with on arrival in port.
67. **Arrérages.** Arrears.
68. **Arrêt, Arrêté.** Decision of a court of law, or public authority.
69. **Arrête de compte.** Final determination of an account.
70. **Arrhes.** Earnest money.
71. **Arriéré.** Arrears (e.g. of work).
72. **Assermenté.** Sworn. An *expert assermenté* is a sworn expert.
73. **Assesseur.** Assistant judge. A French court of justice is presided over by a president and a number of *Assesseurs*.
74. **Assiette d'impôt.** The total taxable value on which apportionment of taxation is based.
75. **Association.** Association (*Société*, *infra*).

76. **Associé.** Partner, shareholder.
77. **Assurance.** Assurance, insurance.
78. **Assurance contre le Chomage.** Workmen's insurance against loss of wages caused by interruption of employment.
79. **Assurance Incendie.** Fire insurance.
80. **Assurance Industrielle.** Employers' liability insurance.
81. **Assurance sur la Vie.** Life insurance.
82. **Assuré.** The insured.
83. **Assureur.** Insurer, assurer.
84. **Atermoiement.** Arrangement between creditor and debtor giving time or other facilities to the latter.
85. **à tort.** Wrongly.
86. **Attestation.** Declaration, affirmation, attestation.
87. **Auditeur.** An auditor of the Cour des Comptes (Government Audit Department) the term " auditor " in France is used in this connection alone. For auditors of companies see *Commissaire aux Comptes* (*infra*).
88. **Autorisation.** Authorisation.
89. **Aval.** Endorsement of guarantee on a bill of exchange, promissory note, &c.
90. **Avarie.** Material damage.
91. **Avenant.** Document attaching to a policy of insurance modifying the terms thereof.
92. **Avertissement.** Notice, notification. The first demand for payment by a tax or rate collector is called *avertissement*.
93. **Avis.** Advice, notification.
94. **Avocat.** Advocate.
95. **Avocat-Conseil.** Legal adviser.
96. **Avocat à la Cour.** Advocate, pleader, inscribed at the Bar (barrister).
97. **Avocat à la Cour de Cassation.** Advocate pleading in the Supreme Court.

98. **Avocat Général.** Law officer who acts in replacement of the Procureur General (Public Prosecutor).
99. **Avoir.** Possessions, property; the credit side of an account, the debit side being the *Doit* (debit). Credit note.
100. **Avoué.** In a limited sense, solicitor. An *avoué* attends to the technicalities of procedure in law courts.
101. **Ayant droit.** Literally " having right." A person having direct interest in property or in legal and other proceedings.
102. **Bail.** Lease.
103. **Bail emphytéotique.** Long-term lease, generally for 99 years.
104. **Bailleur.** Grantor of lease. For tenant see *Locataire* (*infra*).
105. **Bailleur de Fonds.** Lender of capital to a business or enterprise.
106. **Balance, Solde.** Balance.
107. **Balance de Clôture.** Closing balances.
108. **Balance d'Entrée, Balance de Sortie.** Old fashioned accountancy method still much employed by which a bookkeeper, instead of bringing balances down on the face of the accounts at the close of a period, writes them off by means of a journal entry " Sundries to Sundries," subsequently reversing the operation to bring them back into account.
109. **Balance générale.** Trial balance.
110. **Balance d'Ouverture.** Opening balances.
111. **Barreau.** Bar (law courts).
112. **Bénéfices.** Profit.
113. **Bénéfices bruts.** Gross Profits.
114. **Bénéfices nets.** Net profits.
115. **Bénéficiaire.** Beneficiary.
116. **Biens.** Property or belongings (*Avoir*, *supra*).
117. **Bilan.** Balance Sheet.

118. **Billet.** Promissory note: Note of hand to bearer or to order.
119. **Billet de Banque.** Bank note.
120. **Billet (or Traite) de Complaisance.** Fictitious note or bill of exchange accepted in order to enable the holder to raise credit.
121. **Blanc.** In blank.
122. **Blanc-Seing.** Signature given in advance at the foot of a sheet of paper, the text being written in subsequently.
123. **Bon.** Note, I.O.U., authority to draw.
124. **Bon du Trésor.** Treasury note.
125. **Boni.** Balance remaining from a specific fund or budget after all expenditure has been met.
126. **Bordereau.** Slip containing summary details.
127. **Bourse (des Valeurs).** Stock Exchange.
128. **Bourse (de Commerce).** Commercial Exchange.
129. **Bourse (de Travail).** Labour Exchange.
130. **Boursier.** Operator on a Stock Exchange ; should not be confused with a stockbroker (*Agent de Change*).
131. **Brevet.** Certificate, diploma.
132. **Brevet d'Invention.** Patent.
133. **Bris de Scellés.** The removal or breakage of seals affixed by legal authority.
134. **Brut.** Gross, raw (in the sense of raw material).
135. **Budget.** Budget.
136. **Budget de la Tutelle.** Fund set aside for the personal maintenance of an infant or minor.
137. **Cadastre.** Public real-estate register.
138. **Cahier des Charges.** Literally " Book of Rules." A person or company submitting a tender for a public contract receives, or may demand, the *cahier des charges* to which his tender must conform. The holder of a government concession must conduct the business of such concession according to the *cahier des charges* appertaining thereto.

139. **Capital.** Capital.
140. **Capital Actions.** Share capital.
141. **Capital d'Apport.** See *Actions d'Apport* (*supra*).
142. **Capital effectif.** Paid up capital, as distinct from share capital.
143. **Capital-Obligations.** Debenture capital.
144. **Capital Social.** The nominal share capital of a company.
145. **Cassation.** The cancellation of a judgment (Court of Cassation).
146. **Caution.** Security.
147. **Caution judicatum Solvi.** Deposit in Court as security for the costs of an action brought by a foreigner. The ownership of real estate in France exempts the foreigner from this requirement.
148. **Caution légale.** Security required by law.
149. **Cédant.** Transferor.
150. **Censeur.** Controller. The auditor of company is sometimes called a *Commissaire-Censeur*. In general meetings of shareholders the two largest shareholders other than the president are appointed *censeurs* or *assesseurs* (see *Scrutateur*, *infra*). Their duty is to verify the votes or ballots taken. They sign the minutes (*procès-verbal*) of the proceedings.
151. **Centimes (additionnels).** The centime is the official unit of French public revenue. *Centimes additionnels extraordinaires* are imposed in the event of a budgetary deficit. *Centimes spéciaux* are imposed in order to meet the cost of public works such as schools, roads, waterworks, &c. *Centimes facultatifs* are eventual increases for the imposition of which powers have been taken.
152. **Certificate de bonne vie et moeurs.** Certificate of respectability which must be furnished by applicants for employment in civil service.
153. **Certificat de Coutume.** Certificate as to the law of a

foreign country issued by accepted legal practitioners of such countries. French notaries require *certificats de coutume* to assist them in matters of transfer of property, rights, &c., e.g. in a company formation involving the participation of a company having its registered offices in England, a *certificat de coutume* as to English law is required.

154. **Certificat de Paiement.** Payment certificate issued to a contractor by the architect or surveyor of the works entitling him to receive a payment on account or final payment.

155. **Certificat d'Origine.** Certificate of origin, e.g. of merchandise, for customs purposes.

156. **Certificat hypothécaire.** Certificate to the effect that no mortgage or charge on the property of a person, company, &c., is inscribed in the Public Register.

157. **Certificat de Signature.** Signature certificate, being the authentication of signature given by a notary public or stockbroker in respect of transfers of shares.

158. **Cession de Paiements.** Suspension of payment (bankruptcy, insolvency), or as result of financial crisis.

159. **Cession.** Transfer.

160. **Cessionnaire.** Transferee.

161. **Chambre de Compensation.** Clearing house.

162. **Chambre des Référés.** Court of Summary Jurisdiction dealing with urgent matters, presided over by a single judge (*président*).

163. **Chambre des Requêtes.** Chamber of the Supreme Court (*Cour de Cassation*), which decides whether or not appeals may be admitted for hearing.

164. **Chambre Syndicale.** Committee of the corporate body of a trade or profession, which deals with disciplinary cases or differences between members.

165. **Change.** Exchange.

166. **Charges.** Heads of accusation. See also *Frais*, *Frais généraux* (*infra*).

167. **Charte-partie.** Charter-party.

168. **Chirographaire.** Unsecured (debts).

169. **Code.** French laws are divided in groups or codes. The principal are the *Code Civil*, *Code de Commerce*, *Code Pénal*, *Code d'Instruction Criminelle*, *Code de Procédure Civile*, while other special codes are the *Codes Militaire*, *Maritime*, *Forestier*, *Rural*, &c.

170. **Code de Commerce.** Code of Commercial Law.

The requirements of the Commercial Code as to the books of account to be kept by traders or trading enterprises are limited to two books only, the Journal and the Inventory Book. All other books of account are described by the text of the Code as " Customary in commerce, but not indispensable."

In the Journal, according to the prescriptions of Article 8 of the Code, should be inscribed by the trader, day by day, " his debts and the debts owing to him, the operations of his trade, his dealings, acceptances or endorsements in or of negotiable instruments, and generally all that he receives and pays for all and every object." The Journal should also show " month by month, the sum used for the expenses of his establishment " (*maison*).

As to his correspondence the Code requires that the trader should keep in bundles or batches (*liasses*) the letters which he receives, and should copy in a book (*registre*) those he sends. In simple language a letter-file and a press-copy book satisfy the requirements of Article 8 as to the trader's correspondence.

Article 9 of the Code requires the trader to draw up every year " an inventory of his movable and immovable belongings (*effets*), debts owing by him, debts owing to him, and to inscribe the same, year by year in a

special register kept for the purpose. (Inventory Book.)

To comply with Article 9 the trader inscribes yearly in his " Inventory Book " his inventory of plant, furniture, fixtures, tools, utensils or other chattels, his inventory of stock in trade, and finally his balance sheet, which is, in the French sense, the inventory of his movable and immovable belongings (*effets*) and of his debts and those due to him.

Article 10 of the Code requires the trader to present his books once a year to a judge of the Commercial Court or to the Mayor or Deputy Mayor of his town or district, for the official visa (*paraphe*) of authentication. In practice traders present their new books (Journal and Inventory Book) for such visa before the first entry is written therein, but the traders who present their books subsequently every year for this purpose are rare.

Books of account in which the prescriptions of Article 10 have been neglected are, in strict interpretation of the law, considered irregular, and are not admitted in evidence in favour of their owner. A judge may, nevertheless, call for them and consult them in order to facilitate his examination of facts.

171. **Codicille.** Codicil (of a will).

172. **Collusion.** Collusion (crim.).

173. **Commandement d'Huissier.** Formal and final demand for payment or execution of obligations delivered by a *Huissier* (process-server) before commencement of legal proceedings.

174. **Commanditaire.** Partner or shareholder of a *Société en Commandite* (*infra*), or *Bailleur de Fonds* (*supra*).

175. **Commandité.** The responsible partner of a *Société en Commandite*.

176. **Commerçant.** Person whose habitual business or occupation is trade (*Code de Commerce*, *infra*).

177. **Commerce de Detail.** See *Achats en détail* (*supra*).

178. **Commerce de Demi-Gros.** See *Achats en Demi-Gros* (*supra*).

179. **Commerce de Gros.** See *Achat en Gros* (*supra*).

180. **Commerce de Représentation.** Agency trade.

181. **Commerce d'Expédition.** The business of shippers, carriers, &c.

182. **Commettant.** The principal of a contract or transaction of agency.

183. **Commissaire aux Apports.** Auditor appointed in compliance with Article 4 of Law of 24th July 1867, whose duty is to verify and report on the value of the *apports* (*supra*) brought to a company in exchange for shares or *avantages*, i.e. other valuable consideration. The *Commissaire aux Apports* is appointed by the first constitutive meeting of the company. His report, which is printed, should be presented at least five days before the date of the second constitutive meeting convened for the purpose of receiving and examining such report, and should set forth the facts or arguments on which its final recommendations are based.

184. **Commissaire aux Comptes.** Auditor of a *Société Anonyme* formed under the Law of 24th July 1867 (see Part II).

At the first (constitutive) meeting of the company, and at every succeeding ordinary general meeting, one or more auditors are appointed, whose statutory duty is to " report to the general meeting of the following year on the situation of the company, on the balance sheet and on the accounts presented by the directors."

The auditors so appointed (who need not be shareholders of the company) may act separately or jointly. A common practice of companies is to appoint a *Commissaire* from whom, in the first place, the statutory report is expected, and adjoin to him a deputy, or *Commissaire suppléant* who must carry out the auditorial

duties in the incapacity of his colleague. One *Commissaire* alone, or both, may sign the report. The number of auditors appointed in general meeting, and the manner (jointly or separately) in which they are to act are, however, specified in the articles of association.

In case of refusal to act or incapacity of the auditors appointed by a company the Commercial Court (*Tribunal de Commerce*) on the application of the directors or of "any person interested," e.g. shareholders, appoints a *Commissaire* to fill the vacancy. An auditor having accepted office cannot, however, refuse to act.

The auditor should proceed to carry out his audit during the three months preceding the period or the date fixed by the articles of association for the holding of the general meeting. During that time he has the right to call for the books and examine the transactions of the company.

In case of urgency he may convene the general meeting of shareholders.

The half yearly statement of accounts (*Situation*), which every *Société Anonyme* is required to draw up, should be placed at the auditor's disposal. The Law of 1867 does not specify the form in which this statement should be prepared and in practice it is, generally, nothing more or less than an ordinary trial balance.

The documents and accounts submitted each year to audit are the inventories, balance sheet and profit and loss account for the year, which should be submitted to the *Commissaire* not later than the fortieth day preceding the date of the general meeting.

During the fifteen days preceding the date of the general meeting shareholders have the right to inspect, at the registered office of the company, the audited inventories and accounts and the list of shareholders, and may demand a copy of the balance sheet and auditor's report.

Auditors of French companies may be proposed by shareholders in general meeting, but are almost always proposed by the board. Knowledge and experience of accounts is presumed but not required. Any person, regardless of age or nationality, may be appointed an auditor. Officers of the army and navy, certain civil servants, barristers and notaries are, however, debarred.

The remuneration of company auditors is fixed by the shareholders in general meeting.

The nature and extent of the verification or checking imposed on the auditor is not specified by law. It is assumed, however, that he satisfies himself as to the correctness and regularity of the accounts to the extent necessary to enable him conscientiously to sign his report.

Although the law prescribes no particular form the auditor's report properly drawn up, should in practice state :

(*a*) Whether the inventories, balance sheet and profit and loss account have been placed at his disposal within the period prescribed by the articles of association.

(*b*) That the auditor has inspected the books of account and vouchers (*pièces justificatives*) for the period under audit ; their general order and condition and the extent of their agreement with the balance sheet, profit and loss account and inventories.

(*c*) A commentary or *exposé* of the results of working during the period, and of the financial situation as shown by the accounts.

(*d*) Recommendations to the shareholders, upon the board's proposals as to the manner in which the available profits of the company should be dealt with, i.e. dividend, reserve fund, amortisations, &c.

The responsibilities of auditors are defined by Articles 9 and 43 of the Law of 24th July 1867 which declare that *Commissaires* are responsible for their defaults as agents or mandataries according to the general principles of common law.

Apart from fraud or wilful concealment of material fact the responsibilities of an auditor, as regards the company, are terminated by the unqualified acceptance of his report by the shareholders in general meeting.

An auditor is not responsible for his accidental omission to disclose errors of bookkeeping. His examination of the accounts should, however, be sufficiently and conscientiously carried out. It has been held that an auditor " who has only fallen into, or shared, a common error in circumstances which did not reflect on his zeal or perspicacity should be exonerated " (Bordeaux, 26th March 1906).

185. **Commissaires de Surveillance.** Auditors, or commissaries of supervision appointed by the shareholders of a *Société en Commandite par Actions* (*infra* ; see also Law of 24th July 1867 in Part II).

The auditors of a *Société en Commandite par Actions* are chosen exclusively from the shareholders. They are appointed by the first (constitutive) meeting of the company, and hold office in the first place for one year. Subsequently the period for which they are appointed is fixed by the articles of association.

The number of auditors appointed must be not less than three, who act together as a council or committee (*conseil*).

The duty of the first committee appointed is to verify the regularity and completeness of all measures, acts and formalities connected with the formation of the company, such verification being carried out by the committee immediately upon assuming office and before the company commences business. Neglect of this duty renders the formation of the company liable to be declared null and void, and in such case the auditors may be held jointly responsible with the directors or managers for damages resulting therefrom to the shareholders or to third persons. (Articles 1 to 8 of the Law of 24th July 1867, see Part II.)

As regards the subsequent duties of auditors, the Law of 1867 is more exacting in the case of *Sociétés en Commandite par Actions* than in that of *Sociétés Anonymes*. In the latter type of incorporation the *Commissaires* are auditors who act periodically as in English limited liability companies, while in the former the *Commissaires* are supervising auditors whose duties are constant. To quote the text of the law, they " verify the books, the cash and the investments of the company. They present each year to the general meeting a report in which they must point out the irregularities and inexactitudes which they have observed in the inventories, and must show, if necessary, the reasons or facts which exist against the distributions of dividend proposed by the directors or managers."

The yearly report of the auditors should be prepared at least fifteen days before the date fixed for the holding of the general meeting, during which period any shareholder may, personally or by proxy, inspect such report, together with the balance sheet and inventories, at the registered office of the company.

Save as above the duties, rights and responsibilities of auditors of *Sociétés en Commandite* do not differ materially from those of *Sociétés Anonymes*.

186. **Commissaire-Priseur.** Valuing commissary. A public officer whose duty is to value and sell assets submitted to public auction.

187. **Commissaires-Répartiteurs.** Commissaries who

apportion taxes or rates between taxpayers or ratepayers.

188. **Commissionnaire.** Commission-agent. A commercial intermediary who deals under his own name for the account of a principal. A commission-agent should not be confused with a *Mandataire* (mandatary) who acts in the name of his principal, and whose functions have not the *del-credere* character attaching to those of the *Commissionnaire*.

189. **Commissionnaire de Transport.** Forwarding agent.

190. **Commodo et Incommodo.** The name given to an official inquiry as to the opportunity or desirability of building operations, particularly where the works contemplated are of a character which may cause prejudice to neighbours (garages, stables, factories, &c.).

191. **Compensation.** Compensation. Apart from its significance of " recompense," this term is used to denote an arrangement by which an obligation of one party to another is fulfilled or satisfied. In company law the amount standing to the credit of a person in the book of a *Société* issuing shares may be applied in payment of shares subscribed by such creditor. Such payment is called *Paiement par compensation*.

192. **Compétence.** Competency. The extent of the powers of a Court of Law to deal with types of cases, e.g. the Civil Court is *incompétent* to deal with a case which should be heard in the Commercial Court.

193. **Compromis.** Submission to arbitration.

194. **Comptabilité.** Accountancy, bookkeeping.

195. **Comptable.** Accountant or bookkeeper.

196. **Comptable-Expert.** Expert accountant appointed by the Court to examine books and accounts. Expert accountants not attached to the Court are frequently employed by companies or business enterprises either to supplement and assist the official auditor or to organise, advise on or carry out accountancy work.

197. **Compte à demi, tiers, quart.** Joint account between two, three or four parties.

198. **Compte à condition Compte consignation.** In trade, a consignment account, e.g. silk merchants frequently leave stocks of goods in the hands of milliners and dressmakers, who settle accounts periodically according to the quantity used.

199. **Compte courant.** Current account.

200. **Compte d'Effets à recevoir.** Bills receivable Account.

201. **Compte d'Effets à payer.** Bills payable account.

202. **Compte Profits et Pertes.** Profit and loss account.

203. **Conclusions.** Conclusions. The conclusions of a report are the final recommendation or findings. In legal proceedings the " conclusions " set forth the case of each party to the action ; they are prepared by the respective *avoués* and are signified by the one to the other prior to the hearing. It is on the conclusions that the judge examines the case.

204. **Concurrence.** Competition.

205. **Congé.** Notice between landlord and tenant of termination of lease or occupancy ; or between employer and employee of termination of engagement.

206. **Congé (Douane).** Permission to move or transport from place to place goods or merchandise subject to customs duty.

207. **Connaissement.** Bill of lading.

208. **Conseil.** Counsel, council.

209. **Conseil d'Administration.** Board of directors.

210. **Conseil d'Etat.** Council of State. The *Conseil d'Etat* is the Supreme Court of France in fiscal and administrative matters, e.g. a taxpayer, dissatisfied with the decision of a surveyor of taxes (*Contrôleur*) appeals first to the *Conseil de Préfecture*, and finally, if necessary, to the *Conseil d'Etat*.

211. **Conseil de Prud'hommes.** The tribunal of French judicature which hears and decides cases of dispute between employers and employees (workmen, artisans, clerks, servants). The council, or tribunal, is composed of a number of members elected from both classes, employers and employees. Appeals against decisions of the *Conseil de Prud'hommes* are heard by the Civil Court.
212. **Conservateur des Hypothèques.** Government registrar of mortgages and charges.
213. **Consignataire.** Person to whom merchandise is consigned.
214. **Consignateur.** Person who consigns merchandise.
215. **Consignation.** The deposit of money, merchandise or objects. (See *Dépôts et Consignations, infra.*)
216. **Constat.** A document drawn up by a *Huissier* (*infra*) witnessing a fact or an event.
217. **Constatation.** The act of witnessing.
218. **Contentieux.** The subject of litigation. The legal department of a bank, insurance company, railway company or other important company or corporation is called the *Département des Contentieux.* Certain types of legal advisers and debt-collectors style their businesses *Bureaux de Contentieux.*
219. **Contingent.** Distribution of a mass of goods or objects among a number of participants. Allocation of public expenses between different authorities, such as the township, the county and the Government.
220. **Contrat.** Contract.
221. **Contrat d'Abonnement.** Subscription contract, or contract providing for payment by instalments.
222. **Contravention.** Infringment of the law.
223. **Contre-Partie.** In accountancy, counter-entry.
224. **Contribuable.** Ratepayer.
225. **Contributions directes.** Rates, as distinct from taxes. The latter are dealt with under *Impôts* (*infra*).

The amount of rates payable by the citizen varies to some extent according to his trade or profession, and is based largely on the rental value of the premises he occupies. Rates also vary from town to town according to population.

The total yearly product of borough rates is divided between :

(*a*) the *Municipalité* (borough or township) ;
(*d*) the *Département* (county) ;
(*c*) the State.

The scale of rates is fixed by the borough authority (*conseil municipal*) under the sanction of the *préfet* (county sheriff) and of the Government.

Personal rates are chiefly as follows :

Personnelle-Mobilière, based on rental value.
Patente, based on trade or profession.
Patente (*accessory*), for expenses of the Chamber of Commerce. Tax on weights and measures, &c.
Carriages and Horses, based on number of wheels and number of animals.
Dogs, according to use and category.
Domestics, according to number.
Pianos, according to number and category.
Furnished Apartments, leased or hired, based on rental value.

Landlord's rates are as follows :

Contributions foncières, on real estate, based on the annual rateable yield of the property, and divided in two classes, viz., on estate with buildings, and on estate without buildings.
Taxe des Biens de Mainmorte, on real estate, based on the annual rateable yield of estate belonging to corporate bodies such as companies, congregations, or to hospices, public institutions, &c.
Accessory Rates, such as *Taxe de Balayage* (sweep-

ing), drainage, removal of rubbish ; tax on the capital value of buildings (at present 20 centimes per cent.) and on *Portes et Fenetres* (doors and windows) according to number and dimensions.

226. **Contributions indirectes.** Indirect taxes, imposed on certain commodities, such as tobacco, matches, playing cards, &c. Also tax on turnover (commercial).

227. **Contributions (Droits des Pauvres).** Tax for the poor, imposed on the receipts of theatres, music-halls, concerts and public entertainments in general. The revenue from this tax is administered by the public department known as the *Assistance Publique*.

228. **Contrôleur.** Controller. A *Contrôleur des Contributions Directes* corresponds approximately to a surveyor of taxes. In business houses a *contrôleur* or *vérificateur* is an auditor or superviser.

229. **Copie de Lettres.** Copy-letter book. See *Code de Commerce* (*supra*).

230. **Correspondance Commerciale.** Commercial correspondence. See *Code de Commerce* (*supra*).

231. **Correspondant.** Correspondent.

232. **Côte des Changes.** Prices of foreign exchange.

233. **Côte des Valeurs en Banque.** Official stock and share list of securities not dealt in on the official market.

234. **Côte mal taillée.** Transactional settlement of an involved or confused account.

235. **Côte officielle (de la Bourse).** Official price lists of stocks and shares published by the Syndicate of *Agents de Change* (stockbrokers).

236. **Côtisation.** Individual contribution.

237. **Coupon.** Coupon.

238. **Cour.** Court (of law).

239. **Cour d'Appel.** Court of Appeal.

240. **Cour d'Assises.** Assize Court. Criminal Circuit Court for the repression of crime, sitting in each county.

241. **Cour de Cassation.** Supreme Court. See *Cassation* (*supra*).

242. **Cour des Comptes.** Government audit authority, or department.

243. **Cours de Change.** Rate of Exchange.

244. **Courtage.** The functions of an intermediary between buyer and seller.

245. **Courtier.** Person whose occupation is *courtage*.

246. **Coût.** Cost. Cost price.

247. **Couverture.** Provision of money to meet payments.

248. **Créance.** Debt, owing or owed.

249. **Créance chirographaire.** Unsecured debt.

250. **Créance hypothécaire.** Debt secured (by mortgage or charge).

251. **Créance privilégiée.** Preferential debt.

252. **Créance Solidaire.** Joint debt.

253. **Créancier.** Creditor.

254. **Crédit.** Credit, confidence.

255. **Créditeur.** Creditor, see *Créancier* (*supra*).

256. **Croupier.** In company finance, a *croupier* is a person who has an interest of joint ownership in shares held by a registered shareholder. His existence may be unknown to the company, which has, in any case, no obligation towards him.

257. **Curateur.** Curator. *Curateur du ventre*, curator appointed to defend the interest of an infant, unborn, but conceived before the date of death of the father.

258. **Date authentique.** Date legally authenticated (by a notary public, magistrate or other public officer).

259. **Dation en paiement.** Payment of a money debt in kind or in merchandise.

260. **Debiteur.** Debtor.

261. **Debiteur-délégué.** Proxy of a debtor.

262. **Décharge.** Discharge.

263. **Décimes par Franc.** Supplementary tax or stamp duty at the rate of 10 centimes per franc.
264. **Déclaration en Douane.** Customs declaration.
265. **Déclaration de Faillite.** Declaration of bankruptcy by the Commercial Court.
266. **Déclaration d'Hypothèque.** Declaration of mortgage or charge.
267. **Décompte général.** Preparation of an account from a mass of figures or information.
268. **Découvert.** The *découvert* is the amount by which a credit allowed is exceeded.
269. **Décret.** Decree.
270. **Décret-Loi.** Decree issued by Government during a Parliamentary suspension.
271. **De cujus** (Lat.). The deceased.
272. **Depleindroit.** Without possibility of legal contestation, *ipso facto*.
273. **Défaut.** Default.
274. **Déficit.** Deficit.
275. **Dégrévement.** Allowance or reduction granted on a tax assessment.
276. **Délai.** Period allowed, e.g. a company which must convene a meeting in fifteen days has a *délai* of that period. This word, in business matters should not be confused with *retard* (lateness).
277. **Délégation.** Delegation.
278. **Délégué.** Delegate.
279. **Délibération.** Discussion or deliberation preliminary to a vote or resolution.
280. **Délit.** Infringement of penal law.
281. **Délit d'action.** Commission of a penal act.
282. **Délit d'inaction.** Penal omission of an act.
283. **Demande.** In law, the plaintiff's statement of claim.
284. **Demande en Garantie.** In legal procedure the commencement of action or recourse against a person who

has given guarantee or indemnity for the obligations of a defendant.
285. **Demande en Intervention.** The demand or application of a third party to intervene in a legal action.
286. **Demandeur.** Applicant or plaintiff.
287. **Démission.** Resignation.
288. **Dénonciation.** Legal declaration. *Dénonciation de saisie :* Declaration of seizure or attachment. *Dénonciation de Protét :* Declaration that a bill of exchange is dishonoured, served by the drawer on the acceptor and endorser.
289. **Dépens.** Costs (of an action).
290. **Dépenses en Nature.** Expense in kind.
291. **Déport.** Act of abandonment or recusation (of a judge or an arbitrator).
292. **Déposition.** Depositions (of a witness).
293. **Dépôt.** Deposit.
294. **Dépôt de Bilan.** In bankruptcy, the filing of a balance sheet by the debtor.
295. **Dépôts et Consignations (Caisse des).** Public institution whose function is to receive statutory or legal deposits of money or securities.
296. **Dépôt légal.** Legal deposit.
297. **Dépouillement de Compte.** The arrangement in orderly form of a confused mass of figures or facts. *Dépouillement de Scrutin*, the counting of votes.
298. **Députy.** Deputy.
299. **Dérogation.** Modification, derogation.
300. **Désistement.** Abandonment or renunciation of a claim or action.
301. **Détournement.** Misappropriation, criminal conversion.
302. **Dette active.** Debt owing.
303. **Dette passive.** Debt owed.
304. **Dette amortissable.** Debt the repayment of which is

to be effected by a fixed number of instalments or drawings (bonds or debentures).

305. **Dette chirographaire.** Unsecured debt.

306. **Dette civile.** Debt not resulting from a trading transaction.

307. **Dette hypothécaire.** Debt secured by a mortgage or charge.

308. **Dette privilégiée.** Preferred debt.

309. **Devis.** Contractor's quotation of price or cost, for work to be executed.

310. **Disponibilités.** Available resources.

311. **Dissolution.** Dissolution, liquidation, winding up. Apart from the compulsory winding up of a company for reasons of bankruptcy, insolvency, irregularity of formation or constitutional irregularity, a company may decide by resolution in extraordinary general meeting to wind up at the expiration of the period for which it was formed, or upon its losses reaching a total equivalent to three-quarters of its share capital. In the latter event, Article 37 of the Law of 1867 requires that " the directors shall call a general meeting of the shareholders in order to decide whether the company shall be declared in liquidation."

312. **Dividende.** Dividend.

313. **Dividende fictif.** Dividend declared out of fictitious profits resulting from inflation or exaggeration of assets or suppression of liabilities on the balance sheet of a company.

314. **Doit.** Debit, the debit side of an account.

315. **Domaine Public.** The property of the State in general.

316. **Domicile.** The address of a person's principal establishment (not to be confused with *résidence* or habitation). Domicile and residence may, however, be at the same address. A popular description of this distinction is that a residence is the place where a person has his

bed, while a domicile is the place from which the chief actions of his personality or occupation emanate. The Civil Code (Articles 106 to 109) defines the legal aspect and definition of this word. The domicile of a company is its *Siège Social* (registered office).

317. **Domicile d'Election.** Domicile chosen by a person for the performance of certain legal acts, address for service.

318. **Domicile d'Emprunt.** The domicile of a minor or infant.

319. **Dommage.** Damage, prejudice.

320. **Dommage-Intérêts.** Legal definition of damages awarded by the Court.

321. **Dossier.** File of papers or documents concerning a particular matter.

322. **Douane.** The Government administration for the collection of customs.

323. **Double emploi.** In accountancy, erroneous duplication of an entry.

324. **Droit.** Law. *Droit Civil:* Civil Law. *Droit Romain:* Roman Law. *Droit Commercial:* Commercial Law.

325. **Droit Coutumier.** Law created by custom or usage.

326. **Droit d'Ainesse.** The right of the oldest child.

327. **Droit d'Auteur.** Author's rights.

328. **Droit de Douane.** Customs duties.

329. **Droits de Mutation.** Taxes on the transmission of property.

330. **Droit de Préférence.** Preferential right of shareholders to subscribe to the issue by their company of new capital. The exercise of this right is generally limited to a certain period.

331. **Droit de Régard.** The right to view accounts or transactions.

332. **Droit de Rétention.** The right of a creditor to remain in possession of an object pending the payment of his account ; lien.

333. **Droit de Timbre.** Stamp duty.
334. **Droit de Transmission.** See *Droit de Mutation* (*supra*).
335. **Droit d'Hypothèque.** Fee for the inscription in the public register of a mortgage or charge or the transfer thereof.
336. **Droit facultatif.** Optional right. A right which a person may exercise or neglect, at his choice.
337. **Droits fixes.** Fixed dues or taxes as distinct from *ad valorem* or proportional taxes.
338. **Ducroire.** Del credere.
339. **Dûment.** Duly. In accord with rule, custom or agreement.
340. **Duplicata.** Duplicate identical in every feature with the original.
341. **Ecart.** Difference.
342. **Echange.** Exchange.
343. **Echange à Soulte.** The additional sum in money accompanying the exchange or barter of two objects of unequal value.
344. **Echéance.** Due date of payment.
345. **Echéance moyenne.** Mean date of payment.
346. **Echéancier.** The book of account in which a bookkeeper or cashier inscribes in order of date the payments which he must make (bills payable book, or payment diary).
347. **Ecriture.** Writing, bookkeeping entry.
348. **Effets.** Bills of exchange, negotiable instruments.
349. **Effets à recevoir.** Bills receivable.
350. **Effets de Commerce.** Negotiable instruments used for commercial payments.
351. **Effets publics.** Government bonds.
352. **Emargement.** Signature in margin, e.g. signature of an employee in the margin of a pay roll as discharge for the amount paid to him.

353. **Emendement.** Correction, rectification.
354. **Emprunt.** Loan (borrowed).
355. **En caisse.** Cash in hand.
356. **Encaissement.** Collection or encashment.
357. **Encan.** Public sale.
358. **Enchère.** Offer at an auction sale.
359. **Endossement.** Endorsement (negotiable instruments).
360. **Engagement.** Promise or undertaking.
361. **Enquête.** Inquiry.
362. **Enregistrement.** Inscription in a register.
363. **Entrée.** Entry. Opening entry, *Balance d'Entrée.*
364. **Entrée en jouissance.** Entry into possession or enjoyment.
365. **Entremise.** Assistance, good offices.
366. **Entrepositaire.** Factor of merchandise.
367. **Entrepôt.** The premises or warehouse of a factor. In customs matters an *entrepôt* is a bonding warehouse.
368. **Entrepreneur.** Contractor (commercial or industrial).
369. **Epargne.** Savings, economies, product of thrift.
370. **Escompte.** Discount.
371. **Escompter.** To discount.
372. **Espèces.** Current money.
373. **Ester en justice.** To take legal proceedings or measures.
374. **Estimer.** To estimate, appraise, value.
375. **Etat Civil.** Legal and administrative description of a person as appearing on the *Registre d'Etat Civil.*
376. **Etat des lieux.** Descriptive statement as to the condition of premises, annexed to a lease.
377. **Etude.** Office premises of a notary public, a solicitor (*avoué*) or process-server (*huissier*).
378. **Executeur-Testamentaire.** Executor of a will.
379. **Exequatur.** Exequatur. The credentials of a consul. Judicial formula as to the execution of a foreign judgment.
380. **Exercice.** In finance and accountancy, an *Exercice* is a fiscal year or period.

381. **Exhiber.** To produce, in legal procedure.
382. **Exigible.** Claimable.
383. **Expédition.** Authenticated copy of a deed, judgment minute, &c., delivered by a notary public, officer of a Court or Magistrate.
384. **Expert près du Tribunal.** Court expert.
385. **Expertise.** The functions or findings of an expert.
386. **Exploit.** Legal or judicial document served by a process server (*huissier*).
387. **Expropriation.** Expropriation. Expulsion from land or premises for reasons of public necessity in consideration of compensation. A case of public necessity must be established by :
    (*a*) Law or decree authorising the operation in general.
    (*b*) Prefectoral edict delineating the land or territory.
    (*d*) Further prefectoral edict indicating in particular the properties subject to expropriation.

    The compensation payable is fixed by a jury of six persons presided over by a Magistrate.
388. **Extrait.** Extract.
389. **Facture.** Invoice.
390. **Facultatif.** Optional, discretionary.
391. **Faillite.** Failure, bankruptcy.
392. **Faire Défaut.** To make default.
393. **Faux en écriture.** Falsification of an account or text with intent to deceive.
394. **Fermage.** Renting or leasing.
395. **Feuille de Présence.** Attendance sheet.
396. **Fisc.** The administration of taxation as a whole.
397. **Fondé de Pouvoir.** Person holding power of attorney or procuration to act for another.
398. **Fonds.** Funds, capital.
399. **Fonds d'Amortissement.** Sinking fund.
400. **Fonds de Commerce.** Goodwill and (in France) value of lease and stock in trade.

401. **Fonds de Réserve.** Reserve fund.
402. **Forfait.** Fixed price, net global price.
403. **Frais de justice.** Costs of procedure.
404. **Frais de Premier Etablissement.** Preliminary expenses (of a company) as distinct from formation expenses.
405. **Frais généraux.** General expenses.
406. **Franco.** Free of expense.
407. **Frêt.** Freight.
408. **Gage.** Pledge, security.
409. **Garantie.** Guarantee, indemnity.
410. **Gérant.** Manager or director. A director of a *Société en Commandite* (*infra*) is styled *Gérant*.
411. **Gestion.** Management.
412. **Grand Livre.** Ledger.
413. **Grand Livre de la Dette publique.** Register of Government loans.
414. **Greffe.** Registry (of a Court).
415. **Greffier.** Registrar.
416. **Grève.** Strike.
417. **Grosse.** Authentic copy, or duplicate, of a judgment or a title deed, with executory formula.
418. **Hausse.** Rise (in price), increase.
419. **Honoraires.** Fees, emoluments.
420. **Huissier.** Public officer who prepares documents of legal procedure. Process-server who delivers writs, summons and notices, attestations of proceedings.
421. **Hypothèque.** Mortgage, charge.
422. **Immeuble.** Immovable property.
423. **Immeubles par Destination.** Movable objects which are, by their character, accessory to immovable property.
424. **Immobilisation.** Transformation of liquid assets into fixed or immovable assets. On a French balance sheet, fixed assets are frequently grouped under the heading of *Immobilisations*.

425. **Impair.** Odd (numbers).

426. **Impôts.** Taxes.

French taxes may be divided into three classes :

(i) *Specific Taxes*, such as turnover tax, taxes on transfers of shares or property &c. (*infra*).

(ii) *Impôts Cédulaires*, specific taxes imposed on each type of revenue.

(iii) *Taxe sur le Revenu* (income tax), imposed on total income.

The basic principle of French taxation is that all income is imposable twice, firstly by the specific tax applying to each particular type of revenue, and secondly by the global income-tax imposed on the total revenue of the taxpayer. The principle specific taxes are as follows :

(*a*) *Impôts fonciers*. See *Contributions* (*supra*).

(*b*) *Impôt sur le Revenu des Valeurs Mobilières*. Tax on income from stocks, shares and other capital investments, rate 18 per cent.

(*c*) *Impôts sur les Tantièmes et Jetons de Présence des Administrateurs de Sociétés*. Tax on directors' fees and emoluments, rate 18 per cent. The salary of a company director for management services, as distinct from his fees as a director, is imposed under salary tax (*infra*).

(*d*) *Impôt sur les Bénéfices industriels et commerciaux*. Tax on commercial and industrial profits, rate 15 per cent. A certain abatement is granted where the annual profits do not exceed Fr. 50,000. The tax is increased to 20 per cent. on profits realised by insurance, reinsurance, capitalisation and savings bank enterprises.

(*e*) *Impôt sur les Traitements, Salaries, Pensions and Rentes Viagères*. Tax on emoluments, salaries, pensions and life annuities. Annual income from these sources exceeding Fr. 40,000 is taxed

at the rate of 12 per cent. Incomes of less than Fr. 40.000 are taxed on a sliding scale which allows a certain relief.

(*f*) *Impôt sur les Bénéfices des Professions non-commerciales*. Tax on the profits of non-commercial businesses, i.e. professional businesses. The same relief is granted as in the case of commercial profits on total yearly profits not exceeding Fr. 50,000. On profits exceeding that figure the rate is 12 per cent.

(*g*) *Impôts sur les Bénéfices de l'Exploitation Agricole*. Tax on profits of land exploitation. Rate 12 per cent. of the net yearly profits. This tax applies to profits from parks and pleasure grounds and from land on which building is projected. Profits from land devoted to the production of corn are entitled to a certain abatement.

(*h*) *Taxe d'Apprentissage*. Salaries and wages. Tax payable by all industrial and commercial enterprises whose total wage or salary roll exceeds the total of Fr. 10,000 per annum. The salaries and wages declared for the purpose of this tax are, in general, the same as those declared for salary tax (*supra* (*e*)). The *Apprentissage* tax is, however, payable by the employer, while the salary tax falls on the employee. The rate of *Apprentissage* tax is 20 centimes per 100 francs of salary or wages paid. Relief is granted to enterprises which expend money on technical education.

(*i*) *Taxe sur le Revenu à l'Etranger*. Tax on income collected abroad, payable by French subjects whose principal domicile is situated in France, on income collected or earned in foreign countries. The specific rate varies according to the type of revenue. Corporation and companies are, however, exempt.

Déclarations. Returns. Declarations of revenue for specific taxation are made as follows :—

Emoluments, Salaries, Pensions and Annuities, by the employer or payer. The return should state the name, address and occupation of each payee of salary, &c., and the amount paid to him during the calendar year, and should be delivered to the *Contrôleur* (surveyor) not later than the 31st January of the following year. The tax is collected subsequently from the employee or payee.

Industrial and Commercial Profits. The return should be delivered to the *contrôleur* not later than the 28th February. Enterprises whose financial year closes later than the 30th November are allowed a further month, i.e. until 31st March for the delivery of their returns. Trading and commercial concerns which are materially unable to make up their final yearly accounts before the dates prescribed should deliver a provisional return based on an estimate of their last year's profits, and forward their final figures as soon thereafter as possible.

Professional or non-commercial Profits, Profits on Mining and Land Exploitation, etc., Salaries and Wages Subject to "Apprentissage" Tax. Returns should be delivered not later than 28th February.

Penalties for Default. The penalty for failure to file returns of profits within the periods prescribed consists, in general, of an increase of the tax payable by 25 per cent. of the amount thereof (in case of returns of professional or non-commercial profits, 50 per cent.). For suppression or concealment of profits severe penalties are imposed in the form of increased rates of assessment.

Special Taxes payable by Sociétés (*Companies*). French companies are subject to a schedule of taxes instituted

by a series of laws dating from 1850 to 1927. Payment of these taxes is made quarterly and is accompanied by a declaration of the amount due delivered to the Companies Administration Department (*Enregistrement et Timbre*). Quarterly returns are established as at the 31st March, 30th June, 30th September and 31st December of each year, and are filed or delivered during the first twenty days of April, July, October and January.

Company taxes are as follows :—

Abonnement au Timbre (*supra*). This tax is payable on the share and debenture capital issued by the company. Payment is suspended after the first two years of the existence of the company as regards capital which has yielded no dividend. The present rate of this tax is, annually, 20 centimes per 100 francs of capital issued.

Transmissions, Transferts et Conversions. Transmissions, transfers and conversions :—

Transmission taxes apply to bearer shares or stock, and are computed on the total value of shares or stock in circulation. Such total value is obtained by estimate or, if the shares or stock are listed on the Stock Exchange, is based on the mean quotation of the preceding year. The present annual rate of Transmission Tax is $\frac{1}{2}$ per cent.

Transfers of nominative shares or stock and conversions of bearer scrip into nominative or *vice versa*, are declared quarterly and are taxed at present at the rate of 80 centimes per 100 francs of the amount paid as consideration for the transfers, or per 100 francs of conversions.

Revenue Taxes paid by companies are specific taxes collected at source by the Companies Administration Department (*Enregistrement et Timbre*), as follows :—

Dividend Tax. Rate, 18 per cent. of dividends distributed.

Taxes on Directors' Fees and Remunerations. Rate, 18 per cent. of all fees and remunerations paid to directors, with the exception of salaries for administrative functions, such as the fixed salary of a managing director, apart from his fee as a member of the board.

Tax on Interest from Debentures and Loans. Rate, 18 per cent. of the annual amount of interest paid.

Tax on Premiums. The premiums paid on reimbursement of debentures are subject to a tax at the rate of 18 per cent. *Lots* or premiums which have the character of prizes or lotteries are taxed at the rate of 36 per cent.

Taxe sur le Revenu : Income-tax ; the private income-tax to which the individual is liable on the whole of his income from every source whatsoever. Each type of income having been taxed under its particular " specific " scale, the citizen is now liable to general income-tax, sometimes called *Taxe globale* (global tax). The amount of income-tax due, according to the declaration or return, is slightly increased for unmarried, childless or divorced persons, while persons having children or dependants at their charge are entitled to relief according to the number of such children or dependants. The increases referred to are, however, not applied to certain types of war pensioners or invalids.

Subject to the foregoing conditions the rates of income-tax vary considerably according to the total income. Incomes not exceeding Fr. 10,000 per annum are tax free. The tax on larger incomes is at the rate of $33\frac{1}{3}$ per cent. on the amount arrived at by applying the following rates of calculation :—

From Fr. 10,000 to Fr. 20,000, rate, 4 per cent.
on next Fr. 10,000, rate, 8 per cent.
,, ,, ,, 12 ,,
,, ,, ,, 16 ,,
,, ,, ,, 20 ,,
,, ,, ,, 24 ,,

On each succeeding Fr. 10,000 of income the rate is increased by 4 per cent. up to a total yearly income of Fr. 100,000. Up to a total yearly income of Fr. 400,000 the increase of 4 per cent. is imposed on each succeeding Fr. 25,000, and thereafter on each Fr. 50,000 up to a total of Fr. 550,000, at which point the rate of calculation becomes 96 per cent. Incomes superior to Fr. 550,000 are thus taxable on the basis of 100 per cent. on the excess.

Declarations or returns for income tax should be delivered within two months after the end of the fiscal year, i.e. 31st December. Severe penalties are imposed for default or for false declarations.

Deductions : Deductions allowed or disallowed in assessing personal income-tax are few and clearly defined on the declaration forms. It may be of interest, however, to exemplify briefly the types of expenses which may be deducted from declarations for the taxation of commercial and industrial profits :—

COMPANIES

Allowed	*Not allowed*
General Working Expenses.	Profits set to Reserve.
Depreciation (according to nature). The general rate of depreciation of movable assets is 10 per cent.	Directors' Fees.
	Charities and Gifts.
	Sinking Fund provisions.
	Reserves for Bad Debts.
Rates and Taxes.	
Directors' Salaries.	

Specific Bad Debts.
Rent, or Rental Value (if the company is the owner of its premises).

PRIVATE ENTERPRISES

Allowed	*Not allowed*
As for companies, save Directors' (or Partners') Salaries.	Owners' or Partners' Salaries. Interest on Capital. Interest on Loans by a Partner. Profits set to Reserve. Reserves for Bad Debts. Charities and Gifts.

427. **Impôts directs.** Direct taxes.

428. **Impôts sur les mutations.** Taxes on the " mutation " or transmission of real estate, leases, loans with interest, insurance policies, letters of credit, bills of exchange, prizes from lotteries, stock exchange transactions, &c.

429. **Imputation de paiement.** Imputation or allocation of a payment (to a particular debt, where several exist).

430. **Inalienable.** Inalienable. Not transferable or negotiable.

431. **Incompatibilité.** Incompatibility. In law the divergent nature of two functions. A director of a company may not act as auditor thereto. Generally, a person may not occupy two positions where the function of the one is to supervise or control the other.

432. **Incompétence.** Incompetency, the incapacity of a judge or a Court to hear a case falling within the jurisdiction of another tribunal is called *incompétence*.

433. **Indivis.** Indivisible, e.g. a share in a company, of which two or more persons are the proprietors, is recog-

nised by the company only as regards one registered proprietor or holder.

434. **Inscription d'Hypothèque.** Inscription on the public register of a mortgage or charge.

435. **Insolvable.** Insolvent.

436. **Intérêts Composés.** Compound interest.

437. **Intérêt Légal.** Legal rate of interest on capital. Such rate in France is 5 per cent. per annum.

438. **Intérêts Moratoires.** Interest on an overdue debt which is applied as from the date of the summons for payment.

439. **Intérêts Simples.** Simple interest as distinct from compound.

440. **Intestat.** Intestate.

441. **Inventaire.** Inventory.

442. **Jetons de Présence.** The description frequently given to directors' fees which are paid at a fixed sum per meeting or attendance.

443. **Jeton de Signature.** Remuneration paid by companies to the director or directors who sign share or stock certificates.

444. **Jour franc.** A complete day of twenty-four hours.

445. **Judicatum Solvi.** The deposit of money, or security, which a foreigner must provide before proceeding in law against a French subject. Security for costs of action.

446. **Juge de Paix.** Justice of the Peace. Local magistrate. In France the sole qualifications for this office are French nationality, and a minimum age of 30. A *Juge de Paix* may not exercise any other occupation.

447. **Juré.** Sworn. Member of a jury.

448. **Jury.** Jury.

449. **Justification.** Justification. In accountancy the function of vouching.

The vouching of the expenditure of French businesses

presents little difference from the customary principles governing vouchers and vouching in general. A brief indication of the different types of authority for expenditure may, however, be useful.

Capital Expenditure. The articles of French companies sometimes fix a limit beyond which capital expenditure proposed must be submitted to the sanction of the shareholders in general meeting.

Expenditure Authorised by the Shareholders. Subject to the foregoing observation the shareholders, by resolution, authorise :

(*a*) Capital expenditure.
(*b*) Distributions and appropriations of profits.
(*c*) Directors' fees and remunerations and auditors' fees.

Expenditure Authorised by the Board. Subject as above, the board should authorise :

(*a*) Capital expenditure.
(*b*) Other expenditure, made by the managing director (*Administrateur-Délégué*) or by his agents or representatives, under his authority.

With regard to (*b*) the powers of the managing director are set forth in detail in the resolution appointing him. Such powers generally include the faculty of delegation to agents or subordinates.

450. **Légalisation.** The attestation or witnessing of a document by a public officer or magistrate.
451. **Légataire.** Legatee.
452. **Legs.** Legacy under a will. Bequest.
453. **Lettre de Change.** Bill of exchange.
454. **Lettre de Créance.** Credentials.
455. **Lettre de Gage.** Bond or debenture, generally to bearer. The *Crédit Foncier* of France puts into circulation the loans which it contracts by means of *Lettres de Gage.*

456. **Lettre de Voiture.** Bill of transport, corresponding to the bill of lading of a shipper.
457. **Libre Echange.** Free Trade.
458. **Licitation.** Public sale of indivisible property, e.g. a house belonging to two or more owners.
459. **Liquidateur.** Liquidator.
460. **Liquidateur judiciaire.** Liquidator appointed by the Court.
461. **Livres de Commerce.** Books of account prescribed by the Code of Commerce (*supra*).
462. **Locataire.** Tenant.
463. **Location.** Lease.
464. **Long Cours.** Navigation to distant ports as distinct from local and coasting navigation.
465. **Louage.** Hire.
466. **Louage de Capital.** Hire of capital in the form of assets. The returns on such capital is known as *Loyer* or rent of capital as distinct from interest on cash capital loaned.
467. **Loyer.** Rent.
468. **Magasins généraux.** Public warehouse for storage of merchandise. *Magasins Généraux* enterprises also advance funds on goods stored by them.
469. **Mainlevée.** Annulation, e.g. the *mainlevée* of a seizure or attachment is a declaration of release from such seizure or attachment.
470. **Mainmorte.** The expression *mainmorte* applies to real property which does not change ownership, such as the property of companies, corporations, institutions, &c. See *Contributions-Mainmorte* (*supra*).
471. **Majoration.** Increase or inflation (of valuations or estimates).
472. **Majorité absolue.** Absolute majority. In voting power the *majorité absolue* is constituted by one-half of the total number of votes given or made, plus one vote.

473. **Majorité légale.** In France, 21 years of age.
474. **Mandat.** Contract or mandate of agency granted by the principal to the agent, or mandatary, empowering him to carry out in the principal's name one or more acts or transactions. Procuration.
475. **Mandataire.** Mandatary.
476. **Manifeste.** Manifest, general statement of cargo (shipping).
477. **Marchandage.** See *Tacheron* (*infra*).
478. **Marchés à terme.** " Carry-over " operations (Stock Exchange).
479. **Marchés au comptant.** Stock Exchange deal implying the delivery of stocks or shares as distinct from " carry-over."
480. **Marché de gré à gré.** Amicable negotiation, private treaty.
481. **Marché à forfait.** Lump sale or deal for a fixed price.
482. **Marc la livre.** Proportionate settlement.
483. **Marc le franc.** See *Marc la livre* (*supra*).
484. **Marge.** Margin.
485. **Marque.** Mark, (in commerce) trade-mark.
486. **Masse des Créanciers.** The admitted creditors as a whole (in bankruptcy).
487. **Matériel.** In industry or commerce, *matériel* signifies equipment and tools as a whole.
488. **Menée.** Intrigues, manœuvres. *Menées des concurrents*, intrigues or manœuvres of competitors.
489. **Métayage.** Contract between landowner and tenant whereby the former participates in the products of the land.
490. **Meubles.** Movable objects, furniture.
491. **Meubles meublants.** Furniture or furnishings.
492. **Minute.** Minute. The original of a deed or document drawn up by a public officer (notary, magistrate), authenticated and signed by him.

493. **Mise à Prix.** Minimum price, or reserve price, of property or objects put up for sale by public auction.
494. **Mise de Fonds.** The providing or putting up of capital.
495. **Mitoyenneté.** The law governing the question of boundary wall or line of separation between two properties.
496. **Moins-value.** Decrease of value.
497. **Mois-Légal.** Legal period of thirty days.
598. **Monnaie fiduciaire.** Paper money, bank notes.
599. **Mur-Mitoyen.** See *Mitoyenneté* (*supra*). The wall separating two properties and belonging jointly to both proprietors or landlords.
500. **Nantissement.** Pledge, security.
501. **Négoce.** Commerce.
502. **Négociant.** Person engaged in commerce, particularly wholesale commerce.
503. **Nom Commercial.** Trade name or style.
504. **Nom Social.** The name or style of a *Société*.
505. **Notaires.** Notaries public. In France notaries possess a monopoly for the preparation of certain types of authentic deeds and documents of which the original remains in their custody, copies, or *expéditions* of such deeds or documents being delivered by them.
506. **Obligation.** In company law an obligation is a debenture (with or without mortgage) usually reimbursable by drawings (with or without premiums) and bearing a fixed rate of interest.
507. **Octroi.** The tax imposed by cities and townships on certain goods introduced within their boundaries.
508. **Office du Commerce extérieur.** A Government Department, the functions of which are to provide information to traders upon foreign and colonial markets and conditions.
509. **Offres réelles.** Formal offer of a sum due, accompanied

by the sum itself, made on behalf of a debtor by a *huissier* (process-server).

510. **Ordre de Banque.** Order given by a bank for the purchase of securities at fixed prices.

511. **Pair.** Even (numbers).

512. **Papier timbré.** Paper which is stamped with a revenue stamp, convenient for the preparation of legal documents. The use of stamped paper is not imposed by law. Ordinary paper may be used, the stamp being added subsequently.

513. **Parquet.** At a Stock Exchange, the floor or " ring " reserved for members. In the Courts, the law officers forming the body of public prosecution as a whole.

514. **Parts bénéficiaires, Parts de Fondateurs.** Participating shares, or founders' shares.

These types of shares are frequently allotted to the founders of a company in remuneration of services or *apports* (*supra*). They entitle the holder to a fixed percentage of the profits of the company, but have no capital value. The holders are not entitled to vote at general meetings. (Laws of 1st April 1927 and 23rd January 1929.)

515. **Partie civile.** Civil party. In criminal procedure, the party thereto whose claim or interest is of a civil-law nature.

516. **Partie double.** Double entry (bookkeeping).

517. **Pas de Porte.** Value of premises resulting from their situation and the commercial or professional success and reputation of the occupant. *Pas de porte* is an element of goodwill.

518. **Passif.** Liabilities as a whole. The liabilities side of a French balance sheet is frequently subdivided under the headings of *Passif exigible* (immediate or short-term liabilities) and *Passif non exigible* (long term liabilities, such as loans).

519. **Patente.** Personal tax imposed according to the nature of business or occupation of the taxpayer (*Contributions*, *supra*).

520. **Patron.** Chief, master of small craft (shipping).

521. **Pécule.** Salary, wage, allowance.

522. **Pendant.** Pending.

523. **Percepteur.** Collector (of rates, taxes, customs).

524. **Personne morale.** Artificial personality created by law such as a company, corporation or public body.

525. **Pertes.** Losses.

526. **Pièces justificatives.** Vouchers (*Justification*, *supra*).

527. **Plaignant.** Plaintiff, suitor.

528. **Plainte.** Plaint.

529. **Plus-value.** Appreciation (of an asset).

530. **Portefeuille.** Portfolio, the name given in commerce and finance to negotiable instruments and securities as a whole. In balance sheets stocks and shares are frequently grouped under the heading of *portefeuille*.

531. **Possesseur de bonne foi.** Owner in good faith.

532. **Pourvoi.** Petition to the Court of Cassation (Supreme Court) for leave to appeal against a judgment or decision of Court.

533. **Préemption.** The power which the customs office possesses to hold goods against payment of the duty thereon plus one-tenth (where it is considered that the value declared is too low).

534. **Prendre à Bail.** To take on lease.

535. **Prestation de Serment.** The taking of oath.

536. **Prêt.** Loan.

537. **Prêt à Intérêt.** Loan carrying interest.

538. **Prête-Nom.** A person who carries out a transaction in his own name on behalf of another whose personality is by such means concealed.

539. **Privilège de Droits.** Exemption from stamp and transmission duties.

540. **Prix courant.** Price list.
541. **Prix de Fabrique.** Cost of manufacture.
542. **Prix de revient.** Cost price.
543. **Procès-Verbal.** Official statement of facts, events or procedure.
544. **Procuration.** Procuration, power.
545. **Procuration authentique.** Notarial procuration.
546. **Promulation.** The proclamation of the entry into force of a law or decree.
547. **Propriété Industrielle et Commerciale.** The particular rights attaching to a commerce or industry, such as trade-marks, trade-names, copyrights, patent rights, &c.
548. **Prorogation.** Postponement of expiration, extension of period.
549. **Protêt.** Protest (of a bill of exchange).
550. **Provision.** Provision (of money). Fund advanced to an advocate, solicitor, notary, to cover costs and fees.
551. **Prud'hommes.** The members of the *Conseil de prud'hommes* (*supra*).
552. **Pupille.** Ward.
553. **Purge.** Purge. The procedure whereby a property is liberated from a mortgage or charge. Redemption.
554. **Quittance.** Discharge, receipt.
555. **Quitus.** The discharge or liberation from the responsibilities of an office. A company director, upon the expiration of his term of office, demands *quitus* from the shareholders in general meeting, and upon the grant thereof may take possession of his qualification shares. Public functionaries similarly demand *quitus* in order to enable them to collect the deposit of cash or resume possession of the security made or provided by them.
556. **Quorum.** Quorum.
557. **Quote-Part.** Proportionate part.

558. **Quotité.** Arbitrary amount or basis established for purposes of taxation.
559. **Rabais.** Rebate.
560. **Rachat.** Redemption.
561. **Radiation.** The striking out of an inscription on a register or roll.
562. **Raison Sociale.** The name or style (of a company).
563. **Rapport.** Report.
564. **Rapporteur.** Person whose duty is to draw up a report.
565. **Rature.** Striking out with a pen, erasure.
566. **Récépissé.** Note of acknowledgment, principally as regards objects or documents, as distinct from money.
567. **Recevable.** Receivable, as applying in legal procedure to applications, petitions, pleas, &c.
568. **Reconduction.** Renewal. *Tacite Reconduction:* the automatic renewal of a contract in the absence of notice of termination.
569. **Reconnaissance.** Recognisance (of a debt).
570. **Recours.** Recourse.
571. **Recouvrement.** Recovery, collection.
572. **Reçu.** Receipt.
573. **Redevances.** Periodic payments, dues.
574. **Référé.** Summary jurisdiction exercised by the President of the Civil Court or (in commercial matters) by the President of the Commercial Court or one of his deputies. The President, or Judge, can order provisional measures in cases under hearing, *pendente lite*, but only to an extent which does not prejudice the case itself, e.g. custody of an infant during divorce proceedings, experts' reports, questions of seizure or attachment; orders so given are immediately executable, but are subject, nevertheless, to appeal.
575. **Régie.** The administration of State monopolies, such

as tobacco and matches; also of public works carried out by the State.

576. **Registre de Commerce.** Register of commerce. The public register instituted by the Law of 18th March 1919, in which all persons, companies and partnerships engaged in commerce in France must inscribe themselves by declaration filed at the Registry Office of the Tribunal of Commerce. A mention of the inscription must appear on the trader's letter-paper, invoices, &c. (Laws of 1st June 1923, and 17th March 1924.) Persons engaged in professions are not required to register.

577. **Réhabilitation.** Rehabilitation (of a bankrupt or criminal).

578. **Rejet.** Rejection.

579. **Relevé de Compte.** Statement of account.

580. **Réméré.** Faculty to take back goods or objects sold on reimbursement of the price paid.

581. **Remise.** Remittance, remission, allowance.

582. **Remise de Dette.** Abandonment of a debt.

583. **Remploi.** Re-employment. The putting back or use, in a business, of profits earned therein is styled *Remploi*. Also, where two persons are married under the regime of a *dot*, the husband may only sell real property constituting such *dot* on condition that he makes *remploi* of the proceeds.

584. **Rémunératoire.** Paid. An office or function is *rémunératoire* or *honorifique* (gratuitous).

585. **Rente.** Annuity.

586. **Rente foncière.** Annuity granted in consideration of the sale of real estate.

587. **Rente Viagère.** Life annuity.

588. **Rente Viagère Simple.** Single life annuity as distinct from annuity with reversion.

589. **Rentier.** Person whose income is composed of *rentes*, or annuities.

590. **Répartition.** Allocation, division, distribution.

591. **Répertoire.** Index.

592. **Report.** Carry-over (stocks and shares), carry forward.

593. **Reprise.** In bookkeeping. The transfer of a suspense entry to a definite account.

594. **Requête.** Formal application or petition.

595. **Réquisitoire.** The claims or demands of a law officer or public prosecutor in Court proceedings, which he enunciates in his speech or *réquisitoire*.

596. **Réserve.** Reserve.

597. **Réserve Légale.** The legal reserve prescribed by law and by the articles of association of companies, constituted by setting aside every year 5 per cent. of the available profits. Upon the total thereof reaching on amount equal to 10 per cent. of the capital of the company the reserve may be discontinued.

598. **Revenu.** Revenue. In France revenue is classified in four types:

(1) Fixed Revenue (*Revenue fixe*) being the income from Government stocks and bonds.

(2) Variable Revenue (*Revenue variable*) being the income from investments of which the yield may vary from year to year.

(3) Fixed Revenue with Premiums (*Revenue fixe avec Lots*) being the income from premium bonds or debentures.

(4) Temporary Revenue (*Revenue temporaire*), being the income from short term investments and casual income.

599. **Revenu imposable.** The yearly amount which is taken as a basis for the levying of taxes.

600. **Rôle.** Roll, cause list, roll of taxation.

601. **Rôle Cadastral.** Roll of land ownership and of the taxes attaching thereto.

602. **Saisie-Arrêt.** Seizure, attachment.

603. **Scellés.** Official seals.

604. **Scrutateur.** Scrutator. At company meetings the two principal shareholders other than the chairman are generally appointed scrutators. Their mission is to verify the votes or ballots on which resolutions are passed.

605. **Seing.** Mark or signature.

606. **Séquestre.** Person charged by law with the custody of property (*Séquestre judiciaire*).

607. **Serment.** Oath.

608. **Servitudes.** Conditions or obligations attaching to real estate.

609. **Signification.** Legal notification, service.

610. **Sinistre.** Accident. In insurance, the event or accident upon the happening of which the amount assured becomes payable.

611. **Société.** Society, partnership, company. Commercial *Sociétés* are divided into three classes :—

(*a*) *Sociétés en Nom Collectif.*

(*b*) *Sociétés en Commandite.*

(*c*) *Sociétés par Actions*

Sociétés en Nom Collectif. These *Sociétés* are simple partnerships composed of two or more partners, who are responsible for the whole of the liabilities and obligations of the partnership. The firm-name or style must be composed exclusively of the names of one or more partners.

Sociétés en Commandite. These *Sociétés* are partnerships having two kinds of members. The first, or managing partners (*gérants*) are responsible for the whole of the liabilities and obligations of the partnership. The second, or *commanditaires*, are liable only to the extent of the capital which they have engaged in the partnership.

Sociétés en Commandite are of two kinds : *Simple* or *par actions*. In the latter type the capital engaged in the partnership by the *commanditaires* is divided into shares which are negotiable.

Sociétés par Actions. This class of partnership or company comprises *Sociétés* which fall within the domain of the Laws of 24th July 1867 and 7th March 1925. viz. *Sociétés en Commandite par Actions*, *Sociétés Anonymes*, *Sociétés à Capital Variable*, &c., and *Sociétés à Responsabilité Limitée* (*infra*).

Sociétés à Capital Variable. See Law of 24th July 1867 (*infra*).

Sociétés Anonymes. See Law of 24th July 1867 (*infra*).

Sociétés à Responsabilité Limitée. Limited liability companies. These *Sociétés* belong to the new class of companies instituted by the Law of 7th March 1925. Their name is perhaps not happily chosen, for the principle of limited liability extends not only to this type of *Société* but also to *Sociétés Anonymes* and to *Sociétés en Commandite.*

Sociétés à Responsabilité Limitée correspond somewhat to private limited companies in England. The principal features which distinguish them from *Sociétés Anonymes* are as under :

(*a*) The members may be two in number.

(*b*) The company may not invite public subscription.

(*c*) The issue and transfer of shares are subject to certain restrictions.

(*d*) General meetings are only obligatory where the company has more than twenty members.

(*e*) Auditors are only required where the company has more than twenty members.

Sociétés en Participation. Participating societies, or syndicates. These are " occult " partnerships entered into by two or more parties privately. The existence of

these partnerships is not revealed to the outside world, and they are not subject to the formalities of registration and publication imposed on other types of partnership.

Each partner deals with third parties in his personal capacity.

Negotiable shares or part shares may not be issued.

Société Civile. Civil society. Type of company which does not engage in commerce or commercial transactions. Joint owners of real estate frequently form themselves into civil societies. Debenture-holders of companies also constitute civil societies for the consolidation of their interests. The precise legal status of such civil societies is still, however, somewhat vague.

Sociétés (Foreign). Companies of foreign nationality have the right to transact business in France according to the various treaties which have been signed from time to time by the French Government and the principal foreign Governments. As regards British companies their right to carry on business in France was established by the treaty of 30th April 1862.

Foreign companies are required to file a legalised copy of their articles of association and to appoint a resident "Responsible Representative" to act generally for the company, and who is directly responsible for the payment of taxes and stamp duties due.

Foreign companies are liable for profits tax (*Taxe sur les Bénéfices Industriels et Commerciaux*) on profits earned in France, and also for income-tax, which is assessed on the basis of a *quotité*, or proportion, of the profits distributed by the company as a whole, such proportion being fixed by the Ministry of Finance.

It follows that foreign companies doing business in France must file each year a certified copy of their balance sheet and profit and loss account, the auditor's report, the report of the board and the minutes of the

annual general meeting which approved the accounts.

Where the shares of a foreign company are in circulation in France, the company becomes liable, on such shares, for income-tax, stamp duty, transmission and transfer taxes (*supra*).

Sociétés (General Principles). As shown in the preceding paragraphs, companies and partnerships are governed by the special laws applying to their type or character. It should be borne in mind, however, that, in addition to the particular prescriptions of such special laws, the Code of Commerce sets forth a number of basic principles to which all partnerships and companies, whatsoever be their nature, must conform.

In addition to a legal object (*objet licite*) which the law presupposes, the Code of Commerce prescribes, as to partnerships :—

(*a*) The partnership name or style shall be composed exclusively of the name of one or more active partners (Arts. 21 and 23).

(*b*) The name of a *Commanditaire* or sleeping partner may not enter into the partnership name or style (Art. 25).

(*c*) The *Commanditaire* is liable only to the extent of the capital provided by him (Art. 26).

(*d*) The *Commanditaire* may not take part in the management of the partnership, under pain of incurring liability as an active partner (Arts. 27 and 28).

As to companies :—

(*e*) The name or style of a company may not include the personal name or names of any of the members, but should indicate the nature of the enterprise of the company (Arts. 29 and 30).

(*f*) The liability of members is limited to the amount of their shares (Art. 33).

612. **Solde.** Balance (of an account).
613. **Solidaire.** Solidary, joint. In a joint liability each person involved is liable, in default of the others, for the total debt of obligation.
614. **Souche.** Counterfoil, stub.
615. **Soulte.** Additional sum or balance necessary to enable an exact proportionate distribution or division to be made.
616. **Soumission.** Submission (of a tender or quotation).
617. **Sous-Bail.** Sub-lease.
618. **Souscription.** Subscription (for shares).
619. **Sous-locataire.** Sub-tenant. Sub-lessee.
620. **Sous-seing.** Private agreement between parties, as distinguished from a contract or agreement made and signed before a notary.
621. **Sous-traitant.** Sub-agent. Sub-dealer.
622. **Soute.** See *Soulte* (*supra*).
623. **Statuts.** Statutes, bye-laws, articles of association.
624. **Subrogation Judiciaire.** The right granted to a creditor to exercise rights of the debtor.
625. **Succession.** Succession (under wills).
626. **Succession ab intestat.** Succession in the order prescribed by law.
627. **Succession testamentaire.** Succession prescribed by a will or testament.
628. **Surenchére.** Higher bid (sale).
629. **Surestarie.** Demurrage (shipping).
630. **Sûreté.** Sureties, guarantees (for loans).
631. **Sursis.** Exoneration.
632. **Surtaxe.** Additional tax, over-taxation.
633. **Survie.** Survival.
634. **Suscription.** Superscription, endorsement.
635. **Syndic.** Receiver or trustee in bankruptcy.
636. **Tacheron.** A contractor who furnishes labour only.
637. **Tare.** Tare (weight).

638. **Taux.** Price or rate.
639. **Taux légal.** Price or rate fixed by law.
640. **Taxes.** Taxes. See *Impôts* (*supra*).
641. **Taxe sur le Chiffre d'Affaires.** Turnover tax. This tax is payable by every person, partnership or company engaged in commerce or industry, and by persons who, while not being habitually engaged in commerce or industry, carry out occasionally commercial or industrial transactions or receive commission or remuneration in respect thereof.

Certain types of trade and industry connected with the sale and production of foodstuffs and other privileged products are exempted from the tax wholly or in part, this exemption being extended also to certain occupations or enterprises of public interest.

The tax is levied on net turnover actually realised i.e. paid for, after deduction of all discounts and rebates.

The rate of the tax is as follows :—

	Per cent.
On the turnovers of enterprises not falling within the privileged or exempted category	2
On the turnovers of hotels, restaurants and places of refreshment	4
On the turnovers of enterprises of the last above mentioned type falling within the category of luxury establishments	13
On luxury trades	12
On the sale of liquors	30

Subject to certain exceptions, imported goods are taxed twice on turnover, once on arrival in port and a second time upon sale.

All enterprises subject to turnover tax must, if their books of account are not adapted to the purpose, keep a special register or record of their sales from which their monthly declarations are prepared. The tax is

payable every month. It should be remembered, however, that the tax is payable on net turnover for which payment has been actually received. In a well ordered system of bookkeeping the real source of monthly declarations is therefore the cash book rather than the sales book.

642. **Taxe Spéciale sur le Chiffre d'Affaires.** Special turnover tax.

A super-tax on turnovers exceeding one million francs is imposed on certain retail trades, banks, insurance enterprises, savings banks and capitalisation offices. The rates of this tax are as follows :—

	Per cent.
From 1 to 2 millions	1.20
,, 2 ,, 10 ,, ...	2.40
,, 10 ,, 100 ,, ...	3.60
,, 100 ,, 200 ,, ...	4.80
,, 200 millions and upwards	6.00

643. **Témoignage.** Testimony, depositions.
644. **Témoin.** Witness.
645. **Témoin à Charge.** Witness for the prosecution.
646. **Témoin à Décharge.** Witness for the defence.
647. **Terme.** Term, period.
648. **Testament.** Will.
649. **Testament ab irato.** Will made under the influence of anger or malice.
650. **Testament Authentique.** Authentic will deposited with two notaries and witnessed by two persons ; or with one notary and witnessed by four persons.
651. **Testament Public.** See *Testament Authentique*, (*supra*).
652. **Testament Secret.** Will deposited with a notary and attested by six witnesses.
653. **Testament Mystique.** See *Testament Secret* (*supra*).
654. **Testament Olographe.** Will drawn up by the hand of the testator.

655. **Testateur.** Testator.
656. **Tester.** The act of drawing a will.
657. **Tiers.** Third party.
658. **Timbre.** Duty stamp, adhesive or impressed.
659. **Tiré.** Drawee (of a bill of exchange).
660. **Tireur.** Drawer (of a bill of exchange).
661. **Traite.** Draft, bill of exchange.
662. **Traite de Complaisance.** Fictitious bill of exchange accepted merely for the purpose of providing or obtaining credit.
663. **Transcription d'Hypothèque.** Inscription of a mortgage or charge on the public register.
664. **Transcription Facultative.** Inscription (of a mortgage or charge) which is not legally obligatory but advisable in the interest of one or both parties.
665. **Transfert.** Transfer.
666. **Transiger.** To transact, to comprise.
667. **Travaux Publics.** Public works.
668. **Tuteur.** Guardian (of a ward).
669. **Union des Créanciers.** The creditors, as a whole, of a bankrupt.
670. **Vacation.** Vacation. Legal term signifying the time spent on a particular matter by a legal or public officer.
671. **Valeurs Mobilières.** Liquid assets, particularly stocks and shares.
672. **Vente au Comptant.** Retail sale.
673. **Vente à Condition.** Sale of goods delivered on consignment with faculty to return the part unsold.
674. **Vente à Credit.** Credit sale.
675. **Vente à Forfait.** Sale for a fixed or lump price.
676. **Vente à la Criée.** Public sale, hawking, peddling.
677. **Vente à Réméré.** Sale which may be cancelled by the return of the article or goods within a fixed limit of time.
678. **Vente à Tempérament.** Sale on instalment system.

679. **Vente à Terme.** Sale for which payment is made on a fixed pay-day.
680. **Vente aux Enchères.** Auction sale.
681. **Ventiler.** In accountancy, to analyse or dissect.
682. **Vil Prix.** Give-away price.
683. **Virement.** Transfer of an amount (accountancy and banking).
684. **Voix.** Vote (individual).
685. **Voix Déliberative.** Right of speech without vote in an assembly.
686. **Vote.** Vote (collective).
687. **Warrant.** Goods or object deposited as specific security for a bill of exchange or other negotiable instrument.

PART II

General Observations

In the following pages it has been thought useful, in the first place, to set forth in English a characteristic type of Articles of Association (*Statuts*) of a French limited company. Frequently the examination, out of France, of the question of forming a French company to conduct business in France may be facilitated by reference to specimen articles the object of which is to imitate, in the light of French requirements, the purposes of the classic Table A of English company law.

The text of the Law of the 24th July 1867, which governs partnerships issuing shares and limited liability companies has been brought up to date by the incorporation therein of the amendments and modifications effected by the Laws of 1st August 1893, 16th November 1903, 22nd November 1913 and 31st March 1927.

In the extracts from the Commercial Code will be found the prescriptions of the law governing books of account and accounts in general, and also the fundamental requirements with which every partnership and company engaged in commerce in France must comply, whatsoever be the particular regime or law under which the partnership or company is constituted. A short statement of the position of foreign companies transacting business in France will be found in Part I under *Sociétés*.

The Law of the 7th March 1925 is set forth in English. This is the still recent law which introduced into France the prototype of the English private limited company, to which it corresponds somewhat, and under which the number of new incorporations is rapidly increasing.

Finally, a short outline of the French judicial organisation is appended, which may prove useful to many readers who find themselves often confused by the number and variety of officers and functionaries engaged in the legal machinery of France.

Literal translations of the various laws and extracts reproduced should hardly be looked for in these pages. They have, in fact, rather been avoided, the object being to set forth as clearly as possible in English the precise intention of French legislation.

PART II

Articles of Association (Specimen) of a French limited liability company (*Société Anonyme*).

The Law of 24th July 1867 as amended and modified by subsequent enactments, governing partnerships issuing share capital (*Sociétés en Commandite par Actions*) and limited liability companies (*Sociétés Anonymes*).

The Commercial Code (*Code Commercial*), provisions as to commercial books of account and general rules governing *Sociétés*.

The Law of 7th March 1925 instituting private limited companies (*Sociétés a Responsabilité Limitée*).

General Outline of the Judicial Organisation of France.

Specimen Articles of Association (*Statuts*) of a French Limited Liability Company (*Société Anonyme*)

Section 1

Formation and Objects of the Company—Name or Style—Registered Office—Duration

688. *Art.* 1. Formation. By these presents is formed, between the holders of the shares hereinafter created and of the shares which may be created subsequently, a French *Société Anonyme* which shall be governed by the laws in force and by the present *statuts* (articles of association).

689. *Art.* 2. Objects. The objects of the company shall be :
(Here follows a list in detail of the objects of the company. This list should be very complete.)

690. *Art.* 3. Name or Style. The Company shall take the name or style of :
(Here follows the name of the *Société*, which must be impersonal, but should sufficiently indicate the nature of the enterprise.)

691. *Art.* 4. Registered Office. The Registered Office (*Siège Social*) of the Company shall be situated at (address) and may be removed to any other address (within limits imposed) by simple resolution of the board of directors (or by resolution of an extraordinary general meeting of shareholders). The company may, in addition, install offices, agencies or branches in whatever localities the board may choose.

692. *Art.* 5. Duration. The duration of the Company shall be (frequently 99) years from the date of definite constitution (i.e. the first constitutive meeting, or the second, if a second is held).

Section 2

Assets brought in—Capital—Shares

693. *Art.* 6. Apports (*supra*). In the present formation, Mr. (or Messrs.) . . . . acting in capacity of . . . . under powers allotted him (or them) by . . . . have intervened, and in the said capacity make *apport* (*supra*) to the company of the following assets (and rights) :
(Here follows a full recital of the nature, origin, titles and obligations of the property or rights brought into the company by the *apporteurs*.)

In consideration of the above *apports* there shall be issued or allotted to Mr. (or Messrs.) . . . . shares of the company and (cash payments if any). In compliance with the law the said shares shall remain attached to their counterfoils and shall not be negotiable within a period of two years from the date of the definite constitution of the company. The certificates of the said shares shall be stamped with a statement indicating their nature as above.

694. *Art.* 7. Capital. The capital of the company shall be . . . francs divided into shares of. . . francs each. From these shares . . . . shall be granted to Mr. (or Messrs. . . . . in remuneration of his (or their) *apports* and the balance of . . . . shares shall be subscribed and paid up in cash.

The capital of the company may be increased by the creation of new shares, by resolution of an extraordinary general meeting (or meetings) of the shareholders, such resolution being proposed by the board of directors.

695. *Art.* 8. Increase and Reduction of Capital. In the event of an increase of capital by the creation of new shares payable in cash, the holders of existing shares on which all calls have been paid shall have a preferential right of

subscription to the new shares in proportion to the number of existing shares held by them. The board of directors shall determine the conditions, form and period of time in which the preferential rights above mentioned may be exercised.

The capital of the company may be reduced, on the proposal of the board of directors, by resolution of an extraordinary general meeting of the shareholders, or by means of redemption of shares, reduction of their value, exchange of shares for shares of a new type, reimbursement of capital, or in any other manner admitted by law.

696. *Art.* 9. PAYMENT FOR SHARES. Payment for shares subscribed for cash shall be made at the registered office of the company or at any other place or places appointed, and in the following manner :

One quarter at least on subscription.

The balance as and when called by the board of directors in instalments of not less than one quarter. The board may accept payments in advance for shares on conditions agreed.

In the event of increase of capital by the issue of new shares payable in cash the dates of the payments for such shares shall be fixed by the board of directors if the said dates have not been fixed by the extraordinary resolution of the company authorising the increase of capital.

Calls on shares shall be made by notice served on the shareholders (or inserted in an authorised public gazette) . . . days prior to the date fixed for payment of the said calls.

697. *Art.* 10. CALLS IN ARREAR. Calls in arrear are subject to interest at the rate of....per cent. per annum.

The company may sell shares on which calls are in arrear. To this effect the numbers of such shares shall be published in an authorised legal gazette, and fifteen days after the publication of the said numbers, sale of the shares shall be made at the risk and peril of the holder either on the Stock

Exchange (if the shares are listed) or (in the contrary case) by public auction as prescribed by law.

The certificates of shares sold in the manner foregoing shall be null and void, and new certificates bearing the same numbers shall be issued to the purchasers.

Shares on which calls are in arrear are not negotiable, and carry no right to dividends.

The net product of the sale of the shares as aforesaid shall be credited to the account of the defaulting shareholder who shall remain liable for the balance then remaining due, or shall be entitled, as the case may be, to the surplus.

Notwithstanding the sale of shares, as aforesaid, the company may, before, after, or concurrently with such sale, proceed against the shareholder or his legal representatives for the recovery of calls due.

698. *Art.* 11. FORM OF CERTIFICATES. In exchange for the amounts paid upon subscription to shares, shareholders shall receive provisional nominative certificates which shall be replaced by definite certificates upon the payment of the final call on their shares.

Certificates shall subsequently be nominative or to bearer at the choice of shareholders.

All certificates for shares shall be issued from counterfoil books, stamped with serial numbers, shall bear the official stamp of the company, and shall be signed by two directors.

699. *Art.* 12. TRANSFERS. Transfers of nominative shares shall be made in writing and shall be signed by the transferors, or by the transferors and transferees if the shares transferred are not fully paid up.

The board of directors may at its discretion require the signature of the parties to be authenticated.

Transfers of shares shall be inscribed in a special register kept at the registered office of the company in compliance with Art. 36 of the Code of Commerce.

The board of directors may refuse to receive transfers of shares on which all calls made have not been paid.

Transfers of bearer shares shall be made by simple delivery.

700. *Art.* 13. INDIVISIBILITY, INTERDICTION OF PROCEDURE. All shares are indivisible as regards the company. Joint owners of shares must appoint one person of their number to represent them, and such person shall alone be recognised by the company.

The heirs, legal representatives or creditors of a shareholder shall under no pretext be entitled to attach or arrest the assets of the company, nor proceed against the company in respect of shares, nor interfere in any manner whatsoever in the management of the company's affairs, nor claim any right or information other than those conferred or transmitted from time to time by the reports accounts and resolutions of the company.

701. *Art.* 14. RIGHTS AND RESPONSIBILITIES. Subject to such rights as may attach hereafter to priority or preference shares (if such be created), each share shall carry a proportionate interest or part in the assets and profits of the company.

The responsibility of shareholders is limited to the amount of their shares.

Shareholders having transferred shares shall remain liable during a period of two years from the date of transfer for the amount of calls unpaid on the shares transferred.

All rights and obligations attaching to shares shall follow the certificate into whatsoever hands the said certificate shall pass.

Ownership of a share implies full agreement with the articles of association and with resolutions passed in general meetings.

702. *Art.* 15. DEBENTURES. The company may by ordinary (or extraordinary) resolution, at the proposal of the board of

directors, create and issue debentures which shall be nominative or to bearer at the choice of subscribers. Art. 11 and 12 of the present articles of association shall apply to all debentures so issued. The board of directors (or the shareholders in general meeting) shall fix the rates of interest, the terms of reimbursement and of sinking fund payments, and all other the conditions of issue of the said debentures.

SECTION 3

Administration of the Company

703. *Art.* 16. BOARD OF DIRECTORS. The affairs of the company shall be administered by a board of directors composed of (three) shareholders at the least or (.....) at the most, who shall be appointed and/or revoked by general meeting of the company.

704. *Art.* 17. QUALIFICATION. Each director shall be the holder of.....shares of the company. The said (qualification) shares shall be held by the company as security for the faithful accomplishment of the directors' functions. The certificates of the said shares shall be stamped with a declaration of their character and shall be deposited at the registered office of the company.

705. *Art.* 18. TENURE OF OFFICE. Directors shall be nominated for a period of.....years and shall be eligible for re-election.*

The first board shall remain in office until the third annual general meeting of the company, when the board shall be re-elected entirely. Thereafter directors shall retire in rotation in such order and manner as shall effect the entire renewal of the board every three years. Direc-

*Although directors are frequently appointed for a number of years they remain subject to revocation *at any time* by the shareholders in general meeting.

tors retiring by rotation in conformity with the present article shall be eligible for re-election.

706. *Art.* 19. VACANCIES. In case of vacancy created by the decease or resignation of a director, the remaining directors, if they constitute a quorum, may appoint a new director in replacement, but such appointment shall be submitted to the ratification of the next ensuing general meeting of the shareholders. In the event of such ratification not being granted the administrative acts of the provisional director performed during his period of office shall nevertheless be deemed valid. In the event of the remaining directors being insufficient in number to constitute a quorum, a general meeting of the shareholders shall be convened without delay in order to fill the vacancy.

A director appointed to fill a vacancy caused by decease shall remain in office during the unexpired term of the deceased director's appointment.

707. *Art.* 20. DIRECTOR-OFFICERS. Every year, as soon as possible after the annual general meeting, the directors shall meet for the purpose of electing the president, and if necessary, the vice-president of the board.

In the absence of the president and vice-president, the board shall at each meeting appoint one of its members to preside.

The board may appoint a secretary at its meetings, who need not necessarily be a shareholder.

708. *Art.* 21. MEETINGS. Board meetings shall be convened by the president, the vice-president or by two directors, and shall be held as frequently as the business of the company requires.

The meetings of the board shall be held at the registered office of the company or at such other place as may be necessary or convenient.

An absent director may give written power to one

of his co-directors to vote in his stead upon questions arising in meetings. A director may not, however, hold power for more than one absentee.

The quorum of directors necessary to ensure the validity of the proceedings at meetings shall be (.....) directors, present in person.

Resolutions of the board shall be taken by simple majority of directors present or represented. In case of need the president of the meeting may exercise a casting vote.

709. *Art.* 22. MINUTES. The deliberations and resolutions of the board shall be inscribed in a minute book kept at the registered office of the company. The minutes of each meeting shall be signed by (the president and secretary, or by two directors, or by every director present at the meeting).

Copies or extracts of the minutes, required for legal and other proceedings, shall be signed by the president and/or by (one or more) directors.

710. *Art.* 23. POWERS OF THE BOARD. The board of directors shall have the most extended powers in the administration of the company's affairs, and in particular :

Deliberative power upon every transaction affecting the company, powers to authorise and execute all acquisitions, sales, exchanges of real and movable assets ; construct and maintain all buildings and premises ; let and sublet ; acquire all patents, licences and trade marks ; grant and acquire all concessions ; make all loans and advances, &c.

(Here follows the rest of the powers of the board, which are enumerated in detail. Among such powers is frequently included a clause which enables the board to borrow capital on pledge of the company's assets, i.e. on debentures. Such power is, in other cases, granted subject to the approval of the shareholders in extraordinary general meeting.)

711. *Art.* 24. MANAGING DIRECTOR. The board may confer such of its powers as it judges necessary upon one or more director or directors or managers. (The latter need not necessarily be shareholders or directors.) The board shall fix the remuneration of such directors or managers.

712. *Art.* 25. RESPONSIBILITY OF DIRECTORS. The functions of directors do not involve personal or joint liability for the defaults of the company. Directors are, however, responsible as agents for errors and omissions in the execution of their duties (Art. 32 of the Commercial Code).

Directors shall not, directly or indirectly, personally be interested nor participate in any undertaking or transaction in which the company is interested unless specifically so authorised by the shareholders in general meeting (Art. 40 of the Law of 24th July 1867). At each ordinary general meeting a special report shall be submitted in respect of the exercise by the directors of the authorisations or permissions granted as aforesaid.

713. *Art.* 26. DIRECTORS' FEES. Irrespective of the provisions of Article 24 hereof directors shall receive such remuneration for their services as shall be fixed by the shareholders in general meeting. The remuneration so authorised shall be maintained until modified by a subsequent decision of the shareholders.

(Boards are also frequently granted a percentage of the profits of the company to be divided between members in the proportion determined in board meeting.)

SECTION 4

Auditors

714. *Art.* 27. At each annual general meeting of the shareholders one or several auditors shall be appointed to carry out the duties required by law.

In the event of the decease or incapacity of one or more of the auditors appointed the remaining auditor or auditors shall act alone.

Auditors retiring shall be eligible for re-election.

The remuneration of the auditors shall be fixed by the shareholders in general meeting.

SECTION 5

General Meetings

715. *Art.* 29. The general meeting, duly constituted, still represent the shareholders as a whole. Resolutions voted in due form in compliance with the articles of association shall be binding upon every shareholder, present, absent or dissentient.

716. *Art.* 30. MEETINGS. Within a period of six months after the termination of each financial year of the company an ordinary general meeting of the shareholders shall be held.

Extraordinary general meetings may, in case of need, be convened at any time by the board of directors or by the auditors for the purposes indicated in the present articles of association.

General meetings may be held at the registered office of the company or at any other place deemed suitable.

Notices of general meetings shall be made by advertisement inserted in an authorised legal gazette sixteen days at least before the date fixed for the meeting. For extraordinary general meetings the said advertisement shall be inserted not less than ten days before the date of the extraordinary meeting.

Exceptionally, extraordinary general meetings for the purpose of increasing the capital of the company may be convened as aforesaid not less than six days before the date fixed.

When meetings are convened for measures indicated in Article 37 the advertisement of convocation shall set forth the objects of the meeting.

717. *Art.* 30. General meetings shall be composed of holders of not less than (ten) shares on which all calls made shall have been paid.

Holders of less than (ten) shares may join their shares for the purpose of the admission of one of their number to the meeting.

Holders of proxies not being themselves shareholders of the company shall not be admitted. Representatives of companies, partnerships or corporations, being holders of ten shares or more, shall, however, be entitled to admission. Married women and wards, holders of ten shares or more, may be represented at meetings by their husbands or guardians.

The form of proxies shall be determined by the board of directors.

718. *Art.* 31. Holders of bearer shares, in order to take part in general meetings, shall deposit their shares at the registered office of the company or at any other place prescribed by the board of directors on or before the date fixed by the advertisement of convocation.

719. *Art.* 32. Within a period of not less than fifteen days preceding the date of the general meeting, each shareholder may inspect, at the registered office of the company, the inventories and the register of shareholders, and may demand a copy of the balance sheet and auditor's report.

720. *Art.* 33. The agendas of general meetings shall be prepared by the board of directors, and shall contain resolutions emanating exclusively therefrom, save in the case where the holders of shares representing one-fifth of the capital of the company shall have in writing required the insertion of resolutions in the said agendas.

The proceedings at general meetings shall be exclusively confined to matters contained in the agenda.

721. *Art.* 34. General meetings shall be presided over by the President or Vice-President for the time being of the board of directors or, in their absence, by a director appointed for that purpose by the board.

The two largest shareholders present (apart from the President) shall assume the duties of *scrutateurs* (*supra*).

A secretary to the meeting is appointed (not necessarily a shareholder).

Resolutions are decided by majority of votes. Each shareholder has one vote for every (.....) shares held by him.

Ballots may be demanded by shareholders or a number of shareholders holding or representing (one-third) at least of the capital of the company.

722. *Art.* 35. QUORUM. General meetings of shareholders convened for purposes other than those defined in Articles 37 and 42 hereof shall be composed of a number of shareholders representing not less than one-quarter of the capital of the company.

If the number of shareholders present is insufficient to constitute a quorum as above provided the meeting shall be again convened and the proceedings of the second meeting shall then be valid as regards the business set forth on the original agenda whatsoever be the number of shareholders present. The second meeting shall be held not later than fifteen days after the date of the first meeting and shall be convened by advertisement inserted in an authorised legal gazette not later than ten days before the date fixed.

723. *Art.* 36. PROCEEDINGS IN ORDINARY GENERAL MEETINGS. The annual general meeting of the company shall hear and examine the reports of the board of directors and the auditors upon the situation of the company, upon the

working of the company during the last completed financial period, and upon the balance sheet and accounts thereof.

The meeting may not adopt or reject the accounts submitted until and unless the reports of the board and of the auditors have been read.

The meeting shall, on the proposal of the board, fix the rate of dividend to be distributed, and shall decide the method of appropriation of the available profits.

The meeting shall appoint directors (if necessary) and shall also appoint the auditor or auditors for the ensuing financial year.

The meeting shall grant or refuse authorisations to directors applied for under Article 25 hereof and shall in general decide all questions and matters concerning the company not falling within the scope of Article 37.

724. *Art.* 37. EXTRAORDINARY GENERAL MEETINGS. Extraordinary general meetings of the shareholders shall be convened for the undermentioned purposes.

(*a*) Alterations and modifications of the present articles of association.
(*b*) Increase or decrease of the capital of the company.
(*c*) Creation of new types of shares.
(*d*) Modifications of changes of the rights of shareholders *inter se*.
(*e*) Contracting of loans on debentures, issue and terms of issue of the said debentures.
(*f*) Prolongation or reduction of the duration of the company.
(*g*) Voluntary liquidation of the company.
(*h*) Amalgamation or alliance with other companies.
(*i*) Sale of the company's fixed assets or enterprise in whole or in part.
(*j*) Alteration or modification of the name or style of the company.

(*k*) Alteration or modification of the mode of appropriation of profits prescribed by the present articles.

Every shareholder, whatever be the number of shares held by him, shall be entitled to vote at extraordinary general meetings convened for any of the above purposes.

For the validity of resolutions in extraordinary general meeting as aforesaid the presence of shareholders representing at least three-quarters of the capital of the company shall be necessary, and the resolutions shall not be validly adopted unless voted by two-thirds of the shareholders present or represented.

In the event of lack of quorum as aforesaid the extraordinary general meeting shall be convened a second, or, if necessary, a third time by advertisement in the *Bulletin des Annonces légales obligatoires* and in an authorised legal gazette published in the district of the company. The period for notices may be reduced to ten days for the second and third meetings. The quorum for meetings called a second or third time is constituted by a number of shareholders representing one-half or one-third respectively of the capital of the company.

725. *Art.* 38. MINUTES. The proceedings at general and extraordinary meetings shall be inscribed in a minute book and signed by the members of the bureau (i.e. the president, *scrutateurs* and secretary).

An attendance sheet containing the names, addresses and number of shares held or represented shall be signed by each shareholder present at the meeting. Such attendance sheet shall be signed by the members of the bureau as aforesaid and filed at the registered office of the company. Copies and extracts thereof to be produced in legal proceedings or for other purposes shall be certified by the president or vice-president of the board or by two directors.

Section 6

Statements—Accounts—Profits

726. *Art.* 39. Fiscal Year. The first fiscal period of the company shall commence on the date of formation and shall terminate on the 31st December .... Subsequent fiscal years shall terminate on the 31st December.

At the expiration of each six-monthly period the board shall prepare a summary statement of the situation of the company, which shall be at the disposal of the auditors.

At the end of every fiscal year, in compliance with Art. 9 of the Commercial Code, an inventory of the movable and immovable assets of the company shall be prepared. Such inventory, together with the balance sheet and profit and loss account of the company, shall be placed at the disposal of the auditors not less than forty days before the date of the ordinary general meeting.

727. *Art.* 40. Appropriation of Profits. The net profits of the company after deduction of all charges, expenses, depreciations and amortisations shall constitute the profits of the company available for distribution. From the said available profits shall be deducted :

(1) Five per cent. for legal reserve, until such time as such legal reserve reaches a total equivalent to 10 per cent. of the capital of the company. Thereafter, the appropriation to legal reserve shall cease to be obligatory.

(2) The sum necessary to provide a first dividend of (six) per cent. on the share capital paid up.

The balance of profits remaining after the above appropriations shall be applied as follows :

(3) . . . per cent. thereof to the board of directors.

(4) Such sum as the shareholders in general meeting may decide to apply to special reserve funds.

(5) Such further dividend to shareholders as the general meeting may deem expedient.

(6) Such sum as the general meeting may decide to carry forward to the ensuing year.

The dates of distribution of dividends shall be fixed by the board of directors.

728. *Art.* 41. Reimbursement of Share Capital. In the event of the decision by general meeting of shareholders to reimburse shares, such reimbursement shall be carried out by the board of directors in the manner prescribed by the said general meeting. The serial numbers of shares drawn for reimbursement shall be published in an authorised legal gazette circulating in the district of the company.

In exchange for each share reimbursed as aforesaid a participating share (*Action de Jouissance*) shall be issued entitling the holder to participate in all future profits of the company in equality with the holders of shares not reimbursed with the exception of the first dividend of 6 per cent. prescribed by Article 40 hereof.

Section 7

Liquidation

729. *Art.* 42. At any time and in any circumstance the shareholders in extraordinary general meeting convened in conformity with Art. 37 hereof may resolve to wind up the company.

In the event of the loss by the company of a total sum equivalent to three-quarters of the capital the directors, or, in their default, the auditor or auditors, shall convene the shareholders in extraordinary general meet-

ing in order to decide whether or not the company shall be wound up.

The resolution voted in virtue of the present article shall be published.*

730. *Art.* 43. In the event of winding up at the expiration of the term for which the company is formed, or in the event of voluntary winding up for any other reason, the shareholders shall determine the mode of liquidation and shall appoint the liquidator, and if necessary, a committee or council of liquidation.

The nomination of the liquidator shall terminate, *ipso facto*, the functions of the directors and of the auditors.

During the period of liquidation of the company the assets not distributed or realised shall continue to be the property of the company.

During the liquidation the powers of shareholders in general meeting shall continue. The shareholders in such general meetings shall confer on the liquidator such powers as may be necessary, and shall examine the liquidator's accounts and give or refuse discharge thereof.

The duty of the liquidator shall be to realise, by public sale or by private treaty, all the assets of the company. To this effect the liquidator shall have the most extended powers to treat, transact, compromise, give security, consent to all settlements of account.

The net product of the liquidation after payment of all the liabilities of the company and the reimbursement of the share capital shall be the property of the shareholders and shall be distributed among such shareholders in proportion to the amounts of their holdings.

*By notice inserted in an authorised legal gazette ; copies should also be filed at the registry offices of the Commercial Court and the local Justices of the Peace.

Section 8

Claims (Contestations)

731. *Art.* 44. All contestations arising between shareholders and the company and between shareholders themselves on matters affecting the company's affairs shall be submitted to the competent Court of the district of the company.

Contestations arising out of questions touching the general interest of the shareholders shall not be brought against the directors save on behalf of the shareholders as a whole and by virtue of a resolution in general meeting.

Shareholders having a contestation to raise in manner aforesaid shall notify the same to the president of the board of directors at least one month before the date of the next ensuing ordinary general meeting, and the president shall include, or cause to be included, such contestation on the agenda of the said ordinary general meeting.

If the said contestation is rejected by the shareholders no shareholder shall be entitled for the sake of private or personal interests to bring suit in respect thereof against the company or the directors. If, on the other hand, the contestation is admitted by the shareholders, the general meeting shall appoint a commission of one or more of the shareholders in order to examine and report on the questions arising out of the said contestation.

All notifications in respect of the foregoing shall be made to the commission ; no notification shall be made to shareholders individually.

In case of legal suit arising as aforesaid, the findings of the general meeting shall be submitted to the Court at the same time as the plaint.

Every shareholder shall for the purposes aforesaid elect domicile within the district of the competent Court, irrespecti ve of the actual domicile or residence of the shareholder.

In default of election of domicile as above notifications shall be delivered at the Civil Court of the company's district.

SECTION 9

Transitory Dispositions—Conditions of Constitution

732. *Art.* 45. The company shall not be definitely constituted until :

(1) The whole of the shares issued for cash shall have been subscribed and one-quarter of the amount thereof paid up in cash, as attested by the founders in the notarial declaration with the list of shareholders attached setting forth the number of shares subscribed by each shareholder and the payments made in respect thereof.

(2) The first constitutive meeting of shareholders shall have received and approved the declaration of subscription and payment as aforesaid, and appointed one or more commissaries to report to the second constitutive meeting upon the *apports* (*supra*) and the considerations proposed therefor.

(3) The second constitutive meeting, after the printing of the report of the commissaries, as aforesaid (which report shall be at the disposal of the shareholders at least 5 days before the date of such second constitutive meeting), shall have accepted or rejected such report, and in the former case shall have appointed the directors and auditors of the company and received their acceptances of office.

Constitutive meetings shall be convened and held in manner prescribed by the law.

Shareholders may, at such meetings, be represented by proxy-holders not necessarily being shareholders. Each shareholder shall, at constitutive meetings, have one vote per . . . shares subscribed by him ; the total of his votes shall, however, not exceed ten.

733. *Art.* 46. PUBLICATIONS. Full powers are given to the holder of an original of these articles, or a duplicate thereof, order to effect the necessary publication thereof, and of the minutes and procedure of constitution.

COMPANY LAW

(Companies having Share Capital)

The Law of 24th July 1867 (as amended by subsequent laws)

SECTION 1

Partnerships issuing Shares (*Sociétés en commandite par actions*)

734. *Art.* 1 (as amended by the Law of 1st August 1893). **Formation, Capital, Shares** Limited partnerships of which the total capital does not exceed Fr. 200,000 may not divide such capital into shares or part-shares of less than Fr. 25 each. Limited partnerships of a total capital exceeding Fr. 200,000 may not divide such capital into shares or part-shares of less than Fr. 100 each.

Limited partnerships of a total capital not exceeding Fr. 200,000 and partnerships of a total capital exceeding Fr. 200,000 cannot be definitely constituted until, as regards the former, the whole of the capital subscribed by each shareholder is paid up in cash and, as regards the latter, one-quarter at least of the capital subscribed is paid up in cash.

The subscription and payment of capital as above is set forth by the manager (*gérant*) in a notarial declaration.

To the declaration of subscription and payment is

appended a list of the subscribers, a statement of the amounts paid up by each and the duplicate of the formation agreement, if privately drawn, or an original, if such agreement of formation has been received by a notary other than the notary receiving the declaration of subscription and payment.

The private formation agreement, whatsoever be the number of subscribers, shall be drawn up in duplicate, of which one original shall be appended, as provided by the foregoing clause, to the declaration of subscription and payment. The other original shall be filed at the registered office of the partnership.

Negotiability

735. Art. 2. The shares or part-shares become negotiable after the payment of the prescribed quarter thereof.

Shares for *Apports*

736. *Art.* 3 (as amended by the Law of 1st August 1893). Shares are exclusively nominative until paid up in full.

Shares allotted in consideration of *apports* (*supra*) upon the constitution of the partnership shall be so allotted as fully paid.

The certificates of such shares shall remain attached to their counterfoils and shall not be negotiable until after the expiration of two years from the date of constitution. (Law of 16th November 1903.)*

During such period of two years the *apport* shares shall be stamped by the board of directors with an indication of their nature and the date of the constitution of the partnership.

The registered holders, intermediary transferees and the subscribers are jointly responsible for shares up to the total amount thereof.

Transferors of shares cease, after the expiration of two years from the date of transfer, to be responsible for the amounts uncalled on the shares transferred.

*This clause applies also to *parts de fondateurs* and to *parts bénéficiaires* (*supra*) allotted in consideration of *apports* (Law of 31st March 1927).

Approval of *Apports*

737. *Art.* 4. Where a member of the partnership brings in an *apport* other than cash and/or claims from the partnership remunerations or other advantages, the first general meeting proceeds to examine the value of such *apports* and the claim for such remuneration or advantage.

The partnership is not definitely constituted until a second general meeting, separately convened, shall have approved the said *apports*, remunerations or advantages.

The second general meeting shall not take any decision as to the said *apports*, remunerations or advantages until a report thereon shall have been printed and placed at the disposal of the shareholders during at least 5 days immediately preceding the date fixed for such meeting.

Resolutions shall be decided by the majority of shareholders present at the meeting. Such majority shall represent one-quarter at least of the capital issued for cash, and shall be voted by one-quarter of the total number of shareholders.

The proposers of the said *apports* or the claimants of the said remunerations or advantages shall not vote.

In the event of the meeting not approving the *apports* the formation of the partnership shall be null and void.

The approval of the *apports* by the meeting is without prejudice to action which may be brought subsequently against the bringers in of such *apports* for reasons of fraud or wilful deceit.

The dispositions of the present article relative to the verification of *apports* not consisting of cash are not applicable to partnerships formed exclusively between the joint proprietors of the said *apports*.

Council of Supervision

738. *Art.* 5. A council of supervision composed of at least three shareholders shall be appointed by every partnership.

Such council shall be appointed by general meeting of the shareholders immediately after the constitution

and before the commencement of the business of the partnership.

The council shall be re-elected at the dates and according to the terms prescribed by the articles of association.

The first council appointed shall, however, hold office for one year only. (*Commissaires des Surveillance, supra*).

Duties of Council

739. *Art.* 6. The first council of supervision appointed shall immediately satisfy itself as to the compliance by the partnership with the requirements of all the preceding articles.

Nullity

740. *Art.* 7. Partnerships not constituted in conformity with Articles 1, 2, 3, 4 and 5 of the present law shall be null and void. Their nullity shall not, however, prejudice recourse by third parties.

Nullity, Consequences, Actions

741. *Art.* 8. Where a partnership is annulled by virtue of the preceding article the members of the first council of supervision may be held liable jointly with the manager (*gérant*) for damages resulting to the partnership or to third parties by reason of such annulment.

The same liability for damages may be incurred by shareholders whose *apports*, remunerations or advantages have not been examined and approved in compliance with Art. 4 hereof.

No action for the annulment of a partnership or of measures taken by such partnership may be brought where, prior to the commencement of such action, the causes thereof have ceased to exist. For the same reason no action may be brought for damages resulting from such causes; furthermore actions for the foregoing reasons are barred after three years. (Law of 1st August 1893.)

If. in order to avoid the risk of annulment, a general meeting be necessary, no action for annulment may be brought subsequently to the date of the notice convening such meeting. (Law of 1st August 1893.)

Actions for annulment by reason of constitutional defaults or omissions are barred after ten years. (Law of 1st August 1893.)

Liability of Council

742. *Art.* 9. The members of the council of supervision incur no liability by reason of the acts of the management or the effects thereof.

Each member of the council of supervision is responsible for his personal defaults according to the prescriptions of common law.

Annual Duties of Council

743. *Art.* 10. The members of the council of supervision verify the books, the cash, the investments and securities of the partnership.

They submit each year to the general meeting a report showing the errors and irregularities which they have observed in the inventories and showing cause, if necessary, why the dividends proposed by the manager should not be distributed.

No claims for recovery of dividend may be made against the shareholders save in the case where a dividend has been distributed in the absence of an inventory or in spite of the results shown by the inventory.*

Claims in respect of the preceding clause are barred after five years from the date on which the dividends should normally have been distributed.

Rights of Council

744. *Art.* 11. The council of supervision may convene the shareholders in general meeting and with the approval thereof cause the partnership to be wound up.

Inspection

745. *Art.* 12. Within 15 days previous to the date fixed for the general meeting each shareholder may in person or by proxy inspect at the registered office of the partnership the balance sheet inventories and the report of the council of supervision.

Penalties

746. *Art.* 13. The issue of shares or part-shares by partner-

*For " inventory," read "balance sheet and profit and loss account."

ships not constituted in compliance with Articles 1, 2 and 3 of the present law is punishable by a fine of from Fr. 500 to Fr. 10.000.

Persons liable to the same fine are :

The manager who has commenced business for the partnership before the appointment of the council of supervision.

Persons, not being shareholders or holders of part-shares, having represented themselves as such and having created a fictitious majority in general meeting, and this without prejudice to claims for damages which may be brought against them by the partnership or by third parties.

Persons having transferred or used their shares for fraudulent purposes.

In the two last cases, imprisonment for a period of from 15 days to 6 months may be inflicted.

Penalties

747. *Art.* 14. The negotiation of shares or part-shares created as to value or form contrarily to the requirements of Articles 1, 2 and 3 of the present law or on which the necessary quarter has not been paid up as required by Article 2 hereof is punishable by a fine of from Fr. 500 to Fr. 10,000.

All particpations in negotiations as aforesaid and all public quotations of the said shares involve a like fine.

Penalties

748. *Art.* 15. The following persons are liable to the application of Article 405* of the Penal Code without prejudice to the application of the said article to offences constituting fraud :

1. Persons having by fraudulent means or fraudulent publications obtained or attempted to obtain subscriptions for shares or payment in respect thereof.

*Law of 13th May 1863. The punishment for offences against Article 15 is imprisonment for a period not exceeding five years and/or a fine not exceeding Fr. 3,000.

2. Persons having, in order to obtain subscriptions for shares, published untruthfully the names of persons alleged to be connected with the partnership.

3. Managers having, in the absence of inventories, or by means of fraudulent inventories, caused or procured unduly the distribution of dividends.

The members of the council of supervision are not civilly responsible for offences committed by managers.

Penal Code

749. *Art.* 16. Article 463* of the Penal Code is applicable to offences falling under the three preceding articles hereof.

Action by Shareholders

750. *Art.* 17. Shareholders representing one-twentieth of the total capital may in their common interest and at their cost empower one or several representatives to bring or defend actions against the manager or the council of supervision, without prejudice to actions which individual shareholders may bring personally.

Law of 17th July 1856

751. *Art.* 18. Partnerships formed prior to the Law of 17th July 1856 and which have not conformed to Article 15 of that law are required within 6 months from the date of the present law to appoint a council of supervision in compliance with the requirements thereof.

In default any shareholder may demand the winding up of the partnership.

Conversion

752. *Art.* 19. Partnerships formed prior to the present law the articles of association of which permit of conversion into *Sociétés Anonymes* authorised by the Government may convert themselves into such *Sociétés Anonymes* according to the terms prescribed by Section 2 of the present law and in conformity with the conditions prescribed by their articles of association.

Repeal

753. *Art.* 20. The Law of 17th July 1856 is repealed.

Law of 13th May 1863. The punishment for offences against Article 15 is imprisonment for a period not exceeding five years and/or a fine not exceeding Fr. 3,000.

Section 2

Sociétés Anonymes (*Limited Companies*)

Constitution

754. *Art.* 21. Henceforth limited companies may be formed without special authorisation of the Government.

They may be formed by private agreement between the members thereof drawn up in two originals, whatever be the number of members.

They shall be subject to the dispositions of Articles 29, 30, 32, 33, 34 and 36 of the Code of Commerce (*infra*) and to the dispositions of the present law.

Administration Directors

755. *Art.* 22. Limited companies are administered by one or several mandataries appointed periodically, revocable, salaried or not, and chosen from the shareholders.*

The said mandataries may designate one of their number as manager or, if the articles of association permit, may so designate a person not being a member of the company and for whom they are responsible to the company.

Quorum

756. *Art.* 23. A company may not be formed if the number of its members is less than seven.

Declaration of Subscription and Payment

757. *Art.* 24. Articles 1, 2, 3 and 4 of the present law are applicable to limited companies.

The declaration which should, under Article 1 hereof, be made by the manager, is made, as regards limited companies, by the founders, and is submitted, together with all the supporting documents, to the first general meeting, which verifies the accuracy thereof.

Directors

758. *Art.* 25. A general meeting is, in every case, convened by the founders subsequently to the date of the declaration of subscription of the capital and payment of one-quarter of the capital issued for cash. Such general meeting elects the first directors and elects also the first auditors as provided by Article 32 hereof.

*For " mandataries " read "directors."

The first directors may not be elected for more than six years. They are eligible for re-election unless the articles of association provide otherwise.

The first directors may, however, be named in the articles of association with a stipulation that their appointment be not subject to the approval of the general meeting. In this case they may not be appointed for more than three years.

The minutes of the first general meeting record the acceptances of office by the directors and auditors present.

The company is constituted as from such acceptances of office.

Qualification of Directors

759. *Art.* 26. The directors shall be each holders of the number of shares fixed by the articles of association.

These shares of directors are held to be security for the due performance of the functions of one or of every member of the board.

Such shares are nominative, non-transferable, and the certificates thereof are stamped with an indication of their character and deposited in the custody of the company.

General Meetings

760. *Art.* 27. At least once each year a general meeting of the shareholders is held during the period fixed by the articles of association. The articles of association determine the number of shares necessary to qualify members for admission, personally or by proxy, to general meetings, and the number of votes attaching to shares. Holders of lesser numbers of shares may join together and appoint one of their number to attend the meetings on their behalf as holder of the requisite qualification. The latter provision applies equally to companies formed prior to 1st August 1913.*

Notwithstanding the provisions of the preceding

*As amended by the Laws of 1st August 1893 and 22nd November 1913.

clause every shareholder, whatsoever be the number of shares held by him, may attend the first general meetings referred to by Article 24 hereof, i.e. meetings for the verification of *apports*, appointment of the first board, and the verification of the founders' declaration, and may vote to the extent determined by the articles of association up to a maximum of ten votes.

Voting

761. *Art.* 28. In every general meeting resolutions are decided by majority of votes.

An attendance sheet is drawn up containing the names and addresses of the shareholders and the number of shares held by them respectively.

Such attendance sheet is certified by the officials of the meeting, is filed at the registered office of the company and should be produced on demand.*

Quorum for Meetings

762. *Art.* 29. General meetings convened for purposes other than those indicated in the next two following articles should be composed of a number of shareholders representing not less than one-quarter of the capital of the company.

In the event of the necessary quorum not being present the general meeting is convened again according to the terms of the articles of association and at such second meeting the proceedings are valid whatsoever be the proportion of capital represented by the shareholders present.

Quorum for Meetings, Notices

763. *Art.* 30. General meetings convened for the verification of *apports*, the election of the first directors or to examine the declaration of the founders in compliance with Article 24 hereof should be composed of a number of shareholders representing not less than one-half of the capital of the company. For the verification of *apports* the number

*The "officials" referred to constitute the *bureau* of the meeting. They are the president, two assessors (or scrutators) and the secretary to the meeting.

of shareholders present should represent one-half of the capital issued for cash.

In the event of the necessary quorum not being present the proceedings at the meeting shall be provisional only. In this case the meeting is again convened by two notices published eight days apart in an authorised legal gazette and at least one month previous to the date fixed for the second meeting. In such notice the provisional resolutions taken at the first meeting are set forth and become definite if confirmed at such second meeting by a quorum of shareholders representing not less than one-fifth of the capital of the company.

Alterations of Articles, Objects, &c.

764. *Art.* 31. (Law of 22nd November 1913.) Unless otherwise provided by the articles of association the shareholders may in general meeting convened and constituted as aforesaid alter or modify all or any of the provisions of such articles of association, but may not change the nationality of the company nor increase the obligations of the shareholders.

Notwithstanding the provision of the articles of association every shareholder whatsoever be the number of shares held by him may take part in general meetings called for the above purpose and shall be entitled to exercise one vote per share held by him without limit.

General meetings called for the purpose of changing or modifying the objects or the form of the company are not validly constituted unless composed of a number of shareholders representing not less than three-quarters of the capital of the company. Resolutions taken in such meetings should, in order to be valid, be passed by not less than two-thirds of the voting power of the meetings so constituted.

Notices

In all cases other than those set forth in the preceding paragraph, if the necessary quorum is not present, the meeting may be again convened in conformity with the

articles of association by two notices inserted fifteen days apart in the *Bulletin Annexe* of the *Journal Officiel* and in an authorised legal gazette circulating in the district of the company. Such notices shall set forth the date, the agenda and the proceedings of the first meeting. The second meeting may proceed validly with a quorum representing not less than one-half of the capital of the company. Similarly, if necessary, a third meeting may be convened which may proceed validly with a quorum representing not less than one-third of the capital of the company. In all general meetings called as above resolutions should be passed by not less than two-thirds of the voting power of the meetings so constituted.

Auditors

765. *Art.* 32. At every annual general meeting of the shareholders one or more auditors not necessarily being shareholders are appointed whose duty is to report to the following annual general meeting upon the situation of the company, the balance sheet and accounts presented by the directors.

Resolutions approving the accounts of the company in the absence of the auditors' report are null and void.

In the event of omission to appoint auditors, or in the event of the refusal or incapacity thereof, the President of the Commercial Court shall on the application of any person interested grant an order appointing an auditor or auditors, the directors being called to appear in such application.

Rights of Auditors

766. *Art.* 33. During the three months preceding the time fixed by the articles of association for the annual general meeting the auditors are entitled, as frequently as they deem necessary in the company's interest, to inspect the books and examine the transactions of the company.

In case of urgency they may convene the shareholders in general meeting.

Statements of Accounts, Annual Accounts

767. *Art.* 34. Every limited company shall at the expiration of each six-monthly period draw up a summary statement of its liabilities and assets.

Such statement is placed at the disposal of the auditors.

In addition, at the end of each year, in compliance with Article 9 of the Code of Commerce, an inventroy shall be drawn up setting forth the movable and immovable assets and the debts owing to and by the company.

The inventory, the balance sheet and profit and loss account shall be placed at the disposal of the auditors not less than forty days previous to the date of the annual general meeting at which the said inventory, balance sheet, &c., are to be presented.

Inspection

768. *Art.* 35. During the fifteen days preceding the date of the annual general meeting every shareholder may inspect at the registered office of the company the inventory and the list of shareholders and may require delivery of a copy of the balance sheet and auditor's report.

Reserve Fund

769. *Art.* 36. Five per cent. of the available net profits of each year shall be set aside to reserve fund until such time as the said reserve fund shall reach a total equal to ten per cent. of the capital of the company.

The setting aside of such annual percentage shall cease to be obligatory after the said reserve fund shall have reached a total equal to 10 per cent. of the capital of the company.

Liquidation

770. *Art.* 37. In the event of the losses of the company reaching a total equal to three-quarters of the capital the directors shall convene a general meeting of the shareholders with a view to deciding whether the company shall be wound up or shall continue its business.

The resolution taken in respect of the present clause shall in every case be published

In the default of the directors to call such general meeting or in the event of the meeting so called not being

regularly constituted any person interested may apply to the Courts for the winding up of the company.

Liquidation

771. *Art.* 38. Any person interested may apply for the winding up of a company of which the shareholders have been for more than one year less than seven in number.

Action by Shareholders

772. *Art.* 39. Article 17 of the present law is applicable to limited companies.

Personal Interests of Directors

773. *Art.* 40. Directors may not be personally interested directly or indirectly in any undertaking or transaction of the company or entered into on behalf or for the account thereof unless so authorised by general meeting.

Nullity

774. *Art.* 41. Limited companies which have not complied with the requirements of Articles 22, 23, 24 and 25 hereof shall be null and void.

Nullity, Actions

775. *Art.* 42 (amended by the Law of 1st August 1893). Where the annulment of a company or of the proceedings thereof has been pronounced the founders responsible and the directors in office at the time when the nullity was incurred shall be jointly and severally liable to the shareholders and to third parties for damages resulting from such annulment.

The like joint and several liability shall be incurred by shareholders whose *apports* or consideration for *apports* have not been verified in conformity with Article 24 hereof.

Actions for annulment and for damages resulting therefrom shall be subject to the provisions of Article 8 hereof.

Responsibility of Auditors

776. *Art.* 43. The extent and effects of the responsibility of the auditors are determined by the general principles appertaining to mandates.

Responsibility of Directors

777. *Art.* 44. Directors are, according to the principles of common law, jointly or severally responsible as the case may be towards the company or third parties for

breaches of the present law or for defaults committed by them in the exercise of their office, and in particular for dividends which they have wrongfully distributed or sanctioned without protest

Penalties

778. *Art.* 45. The provisions of Articles 13, 14, 15 and 16 of the present law are applicable to limited companies regardless of the date of their formation.

Directors having in the absence of inventories or by means of fraudulent inventories distributed dividends unduly, shall incur the same liability as is applied by Article 15 hereof to managers of partnerships.

The three last clauses of Article 10 hereof * are applicable to limited companies.

Companies formed prior to present law, Conversion

779. *Art.* 46. Companies existing at present † shall continue to be governed by the provisions particularly affecting them.

They may by Government authorisation be converted into limited companies under the present law, their articles of association being modified as required.

Conversion

780. *Art.* 47. Limited partnerships may be converted into limited companies in conformity with the requirements of the present law, their articles of association being modified as required.

The Law of 32rd May 1863 and Articles 31, 37 and 40 of the Code of Commerce are repealed.

Section 3

Companies with variable capital

Powers

781. *Art.* 48. Stipulations may be inserted in the articles of association of every company to the effect that the capital may be increased by means of the bringing in of further cash by existing shareholders or by the admission of

*As to claims for recovery of dividends unduly distributed.
†Formed prior to the date of the present law.

new shareholders ; or that the capital may be decreased by the total or partial repayment thereof.

Companies whose articles provide for increase or decrease of capital as aforesaid are subject to the general principles governing their particular cases and to the requirements of the following articles.

Capital

782. *Art.* 49. The maximum capital shall not, on formation, exceed the sum of Fr. 200,000.

Such capital may be increased from year to year by resolution in general meeting. Such increases shall not exceed the sum of Fr. 200,000 at any one time.

Shares, Negotiation

783. *Art.* 50. (amended by the Law of 1st August 1893). Shares or part-shares shall until the definite constitution of the company be nominative.

They shall not be negotiable, even if fully paid, until after the definite constitution of the company.

Negotiations of shares shall be effected by the inscription of transfers in the books of the company. The articles of association may empower the board or the shareholders in general meeting to oppose such transfers.

Capital

784. *Art.* 51. The articles of association determine the minimum amount beyond which the capital shall not be reduced by the means provided in Article 48 hereof. The said minimum amount shall not be less than 10 per cent. of the original capital.

Companies cannot be definitely constituted until one-tenth of the capital thereof is paid up.

Retirement of Shareholders

785. *Art.* 52. Each shareholder may, subject to the first paragraph of the preceding clause, unless otherwise provided, retire from the company at such time as he may deem fit.

It may be stipulated that the general meeting shall have the power to decide, on the same majority as is required for alterations of the articles of association, that one or more shareholders shall retire from the company.

Shareholders having retired from the company, for whatsoever reason, shall remain responsible during five years as regards the company and as regards third parties for all obligations attaching to their shares at the moment of their retirement.

Representation

786. *Art.* 53. The company, whatsoever be its form, shall be validly represented in legal proceedings by its directors.

Decease, retirement, &c. of Members

787. *Art.* 54. The company shall not be dissolved by reason of the decease, retirement, incapacity, failure or embarrassment of any of its members, and shall continue its business as between the remaining members.

Section 4

Publications by Companies

Filing

788. *Art.* 55. Within one month from the date of constitution of every commercial company, a duplicate of the act of constitution, if such act has been privately signed, or an original, if notarial, should be filed at the registries of the Justices of the Peace and the Tribunal of Commerce of the district of the company.

To the acts of constitution of partnerships issuing shares and of limited companies should be attached (1) an original of the notarial declaration of subscription of the entire capital and payment of at least one-quarter of the capital issued for cash, and (2) a certified copy of the proceedings of the general meeting as regards the requirements of Articles 4 and 24 hereof.

In addition, in the case of limited companies, a certified list of the names, christian names, addresses and occupations of the subscribers, with the number of shares subscribed by each shall also be annexed to the act of constitution.

Publications

789. *Art.* 56. Within the same period of one month an extract of the act of constitution and of the documents

annexed thereto should be published in an authorised legal gazette.

The proof of such publication is an authenticated copy of the gazette legalised by the Mayor and registered within three months from the date thereof.

The formalities required by the preceding and the present articles should be rigorously observed under pain of annulment of the company, but default herein shall not prejudice the rights of third parties as against the shareholders. (i.e. founders)

Publications

790. *Art.* 57. The published extract should contain the names of members other than ordinary shareholders,* the name or style of the partnership or company, the address of the registered office, the descriptions of the managers and directors, the amount of the capital, a statement of the securities or valuable consideration provided or to be provided by shareholders, the date of commencement of business, the date of expiration of the duration of the partnership or company, and the date of filing of documents in conformity with Article 55 hereof.

Extracts published

791. *Art.* 58. The extract should also state the nature of the constitution, whether simple partnership, partnership issuing shares, limited company or company with variable capital.

If the company is limited the extract should also state the amount of the capital issued for cash, and for consideration other than cash, and the annual percentage of profits to be set aside to reserve fund.

Finally, if the company is of variable capital. the extract should state the minimum amount beyond which the capital may not be reduced.

Place of Filing

792. *Art.* 59. Where the partnership or company has several establishments situated in different districts the filing

*The founders.

and publications required by Articles 55 and 56 respectively shall be made in each district.

In towns which are subdivided into districts the filing of the act of constitution shall be made as prescribed in the district in which the principal establishment of the company or partnership is situated.

Signature

793. *Art.* 60. Extracts of documents filed are signed by notary if the documents are notarial, or, if the documents are under private signature, by the managers (of partnerships) or by the directors (of limited companies).

Penalties

794. *Art.* 61. The following measures are subject to the formalities and penalties prescribed by Articles 55 and 56 hereof.

All measures and resolutions in view of alterations of the articles of association, the continuation of the duration of the company beyond the date of expiration fixed, the winding up of the partnership or company prior to such date of expiration and the method of liquidation, all changes of membership or retirements of members and all changes of name or style.

Measures or resolutions taken in respect of Articles 19, 37, 46, 47 and 49 hereof are also subject to the provisions of Articles 55 and 56 hereof.

Exceptions

795. *Art.* 62. The following measures are not subject to the formalities of Articles 55 and 56 hereof :

Resolutions for the increase or decrease of capital taken in conformity with Article 48 hereof, retirements of members other than managers or directors as per Article 52 hereof.

Inspection

796. *Art.* 63. As regards partnerships issuing shares and limited companies any person may inspect the statements filed at the registries of the Justice of the Peace and the Tribunal of Commerce or may, at his cost, require delivery of a copy or extract thereof either by the registrar or by the notary holding the original.

Any person may require from the company or partnership the delivery of a certified copy of the articles of association on payment of a sum not exceeding one franc.

Evidence of filing of the required documents should be displayed visibly at the office of the partnership or company.

Publicity on Stationery

797. *Art.* 64. On all papers, invoices, advertisements, publications and documents whatsoever, printed or written, emanating from partnerships or companies the name or style of the partnership or company should appear visibly, immediately preceded or followed by the words *Société Anonyme* or *Société en Commandite par Actions*, as the case may be, and the amount of the capital.

If the company has availed itself of the faculty provided by Article 48 hereof the words *à capital variable* should be added to the particulars required as above. . . . .

Breaches of the present clauses are punishable by fines of from 50 to 1,000 Fr.

Repeal

798. *Art.* 65. Articles 42, 43, 44, 45, and 46 of the Code of Commerce are repealed.

799. *Art.* 66 to 80. (*These articles deal with Tontine Societies, Assurance Societies and Workpeoples' Participation Societies, and are of but remote interest for the purposes of the present work*).

CODE OF COMMERCE

PART I—SECTION II

Commercial Books of Account

800. *Art.* 8. Every trader shall keep a journal which shall set forth, day by day,* the debts due to him and owing

*The making of daily entries in the Journal is a rule which has fallen into desuetude. Modern journals contain monthly entries which epitomise the general bookkeeping of the business.

by him, the operations of his trade, his negotiations, acceptations or endorsements of bills and other negotiable instruments, and generally all his payments and receipts for every reason and from every source whatsoever ; and which shall also set forth month by month all the sums employed or expended in his business, the said journal being kept in addition to other books which are customary in his business but not indispensable.

He (the trader) is required to keep in bundles (files) the letters which he receives and copy in a register those he sends (press-copy book).

801. *Art.* 9. He is required to make privately every year an inventory of his movable and immovable assets, and of the debts owing to and by him, and inscribe such inventory, year by year, in a register specially kept for this purpose.

802. *Art.* 10. The journal and the inventory book shall be stamped and visaed (by the Tribunal of Commerce) once per year.*

The copy-letter book is not subject to this formality.

All books shall be written up in date order without blanks, gaps or marginal modifications or additions.

803. *Art.* 11. The books prescribed by Articles 8 and 9 hereof shall be folioed, stamped and visaed by a judge of the Tribunal of Commerce or by the Mayor or Deputy-Mayor in the customary form free of charge. Traders shall preserve their books of account during a period of ten years (from the date of the last entry therein).

804. *Art.* 12. Books of account, properly kept, are admissible by the judge as proof of transactions between traders.

805. *Art.* 13. Books which have not been kept in conformity with the formalities prescribed as aforesaid may not be

*This clause is rarely observed by the modern trader. The journal and inventory book are customarily stamped once only, i.e. when new (see Article 11).

put forward nor used in legal proceedings on behalf of traders who have so kept them, without prejudice to the rules of Part III hereof.*

806. *Art.* 14. The production of books and inventories may not be ordered in justice save in matters of successions, questions of division of assets between husband and wife (*communauté*) and in bankruptcy.

807. *Art.* 15. In the course of litigation the production of books may be ordered by the judge in his discretion in view of the extraction therefrom of information touching on matters in dispute.

808. *Art.* 16. (*Deals with the power of the judge to order the examination by commission of books which are kept at a distant place.*)

809. *Art.* 17. If one of the parties to a suit refuses to produce his books although the other party is willing to recognise the same the judge may accept the statement on oath of such other party.

CODE OF COMMERCE

Part I—Section III

General Rules governing Limited Companies (Sociétés Anonymes) in addition to the special regulations prescribed by the Law of 24th July 1867 (infra)

810. *Art.* 29. A *Société Anonyme* may not take a firm name, nor the name or style of any of its members.

811. *Art.* 30. A *Société Anonyme* should have a name or style which indicates the nature of its business.

812. *Art.* 32. Directors are responsible solely for the execution of their mandates.

They incur by reason thereof no joint nor several liability for the obligations of the company.

*Rules of bankruptcy.

813. *Art.* 33. The liability of members is limited to the amount of their shares.

814. *Art.* 34. (Law of 16th November 1903.) The capital of companies is divided into shares or part-shares of equal nominal value.

Companies may, by resolution in general meeting, in compliance with Article 31 of the Law of 24th July 1867, create priority shares having certain preferential rights over ordinary shares either as to division of profits or as to capital or both, save where the articles of association expressly forbid the creation of such priority shares.

Unless otherwise provided by the articles, priority shares and ordinary shares carry, in general meetings, equal voting power.

In the event of modification by resolution in general meeting of the rights attaching to any class of shares, such modification shall not be valid until confirmed by a special meeting of the holders of the said shares.

(Law of 22nd November 1913.) The special meeting as aforesaid shall not be valid unless the number of shareholders present and voting be in conformity with Article 31 (pars. 2, 3 and 4) of the Law of 24th July 1867.

815. *Art.* 35. Shares may be issued in bearer form, in which case transfers are made by simple delivery of the certificates.

816. *Art.* 36. The ownership of shares may be established by inscription in the register of the company, in which case transfers are made by inscriptions in the said register signed by the transferor or by his duly authorised representative.*

*Although the Code of Commerce requires that transfers of nominative shares be inscribed and signed by the transferors in the registers of the company, such transfers are more frequently made on transfer forms, one duplicate of which is lodged with the company for registration by the directors. The precise method of transfer is, however, generally indicated by the articles of association.

Private Limited Companies

(*Sociétés à Responsabilité Limitée*)

Law of 7th March 1925

Preliminary

817. *Art.* 1. Apart from *Sociétés Anonymes* governed by the legislation applying thereto, limited companies may be formed under the title of *Sociétés à Responsabilité Limitée* subject to the following provisions.

Objects

818. *Art.* 2. Such companies may be formed for any object save for assurance, capitalisation and savings banks.

Commercial Character

819. *Art.* 3. Whatsoever be their object, private limited companies are commercial and are subject to the laws and usages of commerce.

Constitution

820. *Art.* 4. Private limited companies are constituted by act of formation before notary, or by private agreement.

If the formation agreement is private, sufficient copies should be made to permit one to be deposited at the registered office of the company and others to be used in support of each separate formality.

Each shareholder should be a party to the agreement, either personally or by proxy.

The company may not, for its own account, make public issue of shares or debentures (*Valeurs Mobilières*).

Members

821. *Art.* 5. The number of members may be two or more, without limit.

Capital and Shares

822. *Art.* 6. The capital may be not less than 25,000 francs, and may not be reduced below that figure. Shares should be of 100 francs each or in multiples of 100 francs.

Constitution Requirements

823. *Art.* 7. The company is not definitely constituted until all the shares are taken up by the members and paid up in full.

Shares issued wholly or in part for consideration other than cash should be issued as fully paid upon the formation of the company. The founders should declare in the

act of formation that the foregoing requirements have been complied with.

Nullity

824. *Art.* 9. Companies constituted contrary to the terms of Articles 2, 4, 5, 6, 7 and 8 hereof are null and void.

Such nullity shall not, however, prejudice the rights of third parties as against the members.

Consequences of nullity

825. *Art.* 10. Where a company has been declared null and void in virtue of the preceding clause the members whose defaults have caused the nullity are jointly liable with the founders to the other members and to third parties for damages resulting from such annulment. Actions for annulment and for damages in respect thereof are barred after ten years.

Name or Style

826. *Art.* 11. The name or style of private limited companies may be composed of an indication of the nature of the enterprise or of the names of one or more of the members.

Filing

827. *Art.* 12. Within one month from the date of constitution of the company a duplicate of the act of constitution, if notarial, or an original, if privately drawn, is filed at the registries of the Justices of the Peace and of the Tribunal of Commerce of the district of the Company.

Publication

828. *Art.* 13. Within the same period of one month an extract of the act of constitution is published in an authorised legal gazette.

The proof of such publication is an authenticated copy of the gazette containing the publication, legalised by the Mayor and registered within a period of three months from the date thereof.

Failure to comply with the requirements of Article 12 hereof and of the present article may involve the annulment of the company, but such annulment shall not prejudice the rights of third parties as against the members.

Nature of Publication

829. *Art.* 14. The extract published as per Article 13 hereof should state that the company is of limited liability; its objects, the names of its members, its name or style, the

address of its registered office, the names of the directors and managers and of persons having power of signature the amount of the capital, the value and nature of the *apports*, the allocation of interest to members as per Article 34 hereof, even in the absence of profits, the date of commencement of business, the date of expiration of the duration of the company and the date of filing of the act of constitution at the registries of the Justices of the Peace and the Tribunal of Commerce.

Places of Publication

830. *Art.* 15. If the company has several establishments or branches situated in different places or districts the filing of the act of constitution as per Article 12 hereof and the publication as per Article 13 should be made in each district. In towns which are subdivided into districts the filing of the act of constitution shall be made in the district of the principal establishment of the company.

Signatures

831. *Art.* 16. The extract of the act of constitution is signed by the notary having received it or, if the act is privately drawn, by one of the members duly empowered to that effect.

Modifications

832. *Art.* 17. All acts or resolutions modifying or altering the articles of association, and all changes in membership are subject to the prescriptions and sanctions of Articles 12 and 13 hereof.

Publicity on Stationery

833. *Art.* 18. All letter-paper, invoices, announcements, publications or documents whatsoever emanating from the company should bear, immediately after or before the name of the company, the mention *Société à Responsabilité Limitée* in visible letters, and an indication of the amount of capital of the company.

Failure to observe these requirements is punishable by a fine of from 50 to 1,000 francs.

Inspection

834. *Art.* 19. Any person may inspect, at the registries of the Justices of the Peace and of the Tribunal of Commerce, the filed information regarding the constitution of the

company, and may at his expense require the registrar to furnish him with copies or extracts thereof.

Inscription in Register of Commerce

835. *Art.* 20. The company should be inscribed on the Register of Commerce, in conformity with the Law of 18th March 1919, within the period and subject to the observances prescribed by that law.

The inscription to be made, in accordance with Article 6 of the said law should contain, in addition to the information required by the said article, the full names of the members, the date and place of their birth, their nationalities and in general all the details prescribed by Article 4 of the said law.

The reference indicated by Article 7 of the Law of 18th March 1919 should also be included in the inscription.

The company should also be inscribed in the Central Register of Commerce in conformity with Article 10 of the said law.

Restrictions on issue of Share Certificates and on Transfers

836. *Art.* 21. Negotiable certificates, whether to bearer, nominative or to order may not be issued in respect of shares. Transfers of shares are subject to the prescriptions of Articles 22 and 23 hereof.

Transfers of Shares

837. *Art.* 22. Shares of the company may not be transferred to persons not being members without the consent of members representing at least three-quarters of the capital of the company.

Transfers of Shares (Method)

838. *Art.* 23. Transfers of shares may be made by notarial act or by private treaty.

Such transfers are not valid as regards the company and third parties unless they have by notarial act been notified to and/or accepted by the company in conformity with Article 1690 of the Civil Code.

Management

839. *Art.* 24. Private limited companies are managed by one or several mandataries, members or not, salaried or non-salaried.

Managers or directors are appointed by the members

either in the act of constitution or subsequently for a period of time or permanently. Unless the articles of association stipulate otherwise managers or directors have full powers to act on behalf of the company in all circumstances. All limitations privately imposed on the said powers are without effect as regards third parties.

Managers or directors designated in the act of constitution or by subsequent appointment are irrevocable save for sufficient reasons.*

Responsibility of Managers or Directors

840. *Art.* 25. Managers or directors are responsible according to the rules of common law, individually or jointly as the case may be, towards the company and towards third parties for breaches of the present law or of the articles of association or for defaults in the execution of their duties.

Resolutions

841. *Art.* 26. Decisions of the members are taken in meetings.

The holding of meetings is, however, not indispensable where the members do not exceed twenty in number. In the latter case each member should receive the text of measures proposed, and should vote thereon in writing.

Quorums

842. *Art.* 27. No resolution is valid in the circumstances indicated in the preceding article unless voted by members representing more than one-half of the capital of the company. Subject to the articles of association, if the necessary quorum of votes is not attained at the first consultation, the members are requested by registered letter to vote a second time and resolutions are then adopted by simple majority whatsoever be the proportion of capital represented.

Voting Power

843. *Art.* 28. Notwithstanding any stipulation to the contrary in the articles of association every member may take part in resolutions, each member exercising one vote per share held by him.

General Meetings

844. *Art.* 29. Companies of more than twenty members should

*Incapacity, fraud, wilful mismanagement.

hold once at least in each year a general meeting at the time indicated in the articles of association.

Other meetings may be convened by the managers or directors or alternatively by the council of supervision, if such council exists, or by members representing more than one-half of the capital of the company.

Inspection of Reports and Accounts

845. *Art.* 30. Each member may, in person or by his duly authorised representative, inspect at the registered office of the company the inventory, balance sheet and report of the council of supervision constituted in conformity with Article 32 hereof.

Where companies have more than twenty members such inspection shall only be permitted during the fifteen days immediately preceding the date of the meeting.

Constitutional Changes

846. *Art.* 31. The members may not, unless they have unanimously decided so to do, change the nationality of the company. All other changes in the articles of association are, in the absence of a contrary stipulation, decided by a majority of members representing three-quarters of the capital of the company. In no case, however, may a majority oblige any one of the members to increase his holding.

Council of Supervision (Auditors)

847. *Art.* 32. In every company of more than twenty members a council of supervision shall be established composed of at least three members of the company.

The first council is appointed by the act of constitution. Subsequent councils are elected at dates indicated in the articles of association.

The powers of the council of supervision are set forth by Article 10 of the Law of 24th July 1867 (*supra*).

The members of such council incur no responsibility by reason of the acts of the managers or directors.

Each member of the council is responsible to the company and to third parties for defaults committed by him in the execution of his mandate.

Statutory Reserve Fund

848. *Art.* 33. An amount equivalent to five per cent. of the net profits shall be set aside each year to reserve fund. Such yearly provision shall cease to be obligatory when the total of the reserve fund shall have reached an amount equal to one-tenth of the capital of the company.

Interest prior to Profit-earning

849. *Art.* 34. Where companies are, before commencing business, obliged to carry out works, it may be stipulated in the act of constitution that members shall be entitled to interest on their holdings at a rate and during a period determined, which period shall not exceed the period occupied by the said works. Such payment of interest shall be valid even where the company has realised no profit.

The right to interest as above shall be published in an authorised legal gazette in conformity with Article 13 hereof, under pain of annulment of the formation.

The interest paid as above shall be charged to preliminary expenses which shall be written off against future profits over the period indicated in the articles of association.

Undue Dividends

850. *Art.* 35. Dividends unduly or erroneously distributed may be reclaimed from members having received them.

Actions for the return of such dividends are barred after the expiration of five years from the date of the distribution.

Incapacity, Decease, &c., of Members

851. *Art.* 36. The incapacity, bankruptcy, insolvency or decease of a member shall not entail the dissolution of the company unless (as regards decease) a contrary stipulation exists in the articles of association.

Penalties

852. *Art.* 37. The following breaches of the law incur the infliction of fines of from 500 to 10,000 francs or of a term of imprisonment of from fifteen days to six months or both :

False declarations by the founders as to the division of capital between members and as to the payment thereof.

The institution by the managers or directors of a public subscription (to shares) for the account of the company.

Penalties

853. *Art.* 38. The following breaches of the law incur the application of Article 405 of the Penal Code without prejudice to the application of the said article to every offence constituting fraud :

The fraudulent exaggeration of the value of *apports*.

The distribution of dividends in the absence of inventories or by fraudulent inventories.

Penalties

854. *Art.* 39. Article 463 of the Penal Code is applicable to all breaches of the present law.

Variable Capital

855. *Art.* 40. It may be stipulated in the articles of association of private limited liability companies that the capital shall be increasable by further payments of cash by existing members, by the admission of new members, or decreasable by the return in part or in total of the *apports*.

Companies of which the articles of association contain the foregoing stipulation are subject not only to the dispositions of the present law but also to the Law of 24th July 1867 as to companies with variable capital (Articles 48 to 54).

Conversions

856. *Art.* 41. Partnerships and companies of other types, constituted prior to or subsequently to the date of the present law may, subject to the rights of third parties, convert themselves into private limited companies.

In like manner private limited companies may be converted into limited companies (*Sociétés Anonymes*).

Exemption from Revenue Tax

857. *Art.* 42. The Revenue tax on dividends, interests, arrears thereof and other dues provided by Article 1 of the Law of 29th June 1872, Article 31 of the Law of 29th March 1914, and Article 50 of the Law of 25th June 1920 is not applicable to sums payable to directors or managers under Article 24 of the present law.*

*Repealed by the Law of 30th December 1928 which renders these payments now subject to Revenue tax.

Filing of Returns

858. *Art.* 42. *cont.* Private limited companies are subject to the requirements as to filing of returns prescribed by Articles 16 and 28 of the Law of 5th June 1850, Article 22 of the Law of 23rd August 1871 and Article 7 of the Law of 21st June 1875, under penalties provided by the said laws and by Article 5 of the Law of 17th April 1906.

Algeria and Colonies

859. *Art.* 43. The dispositions of the present law are applicable to Algeria and to the Colonies.

FRENCH JUDICIAL AND LEGAL ORGANISATION

860. COURTS AND JUDGES. In each municipal district a *juge de paix* (justice of the peace) is appointed. His powers are limited by the decree of the 5th November 1926 to cases involving sums not exceeding Fr. 1,000, or, subject to appeal, sums not exceeding Fr. 3,000. His powers, furthermore, in penal matters, are limited to petty offences.

In each judicial district or circumscription a *Civil Tribunal* exists. Civil cases, and penal cases involving sentences of imprisonment for terms not exceeding five years, are decided by three judges.

There are, in addition, twenty-eight *Appeal Courts* in France and Algeria, situated in the following towns: Agen, Aix, Amiens, Angers, Bastia, Besançon, Bordeaux, Bourges, Caen, Chambéry, Colmar, Dijon, Douai, Grenoble, Limoges, Lyons, Montpellier, Nancy, Nîmes, Orléans, Paris, Pau, Poitiers, Rennes, Riom, Rouen, Toulouse, Algiers.

Civil cases are dealt with by a presiding judge and four assistant judges (*conseillers*).

The *Court of Assize* is a branch of the Court of Appeal and sits in the judicial capital of each county as often as is necessary. Such Court is constituted by a presiding judge and two assistant judges. The presiding judge has the rank of *conseiller à la cour*, while the assistant judges are either *conseillers* or judges of first instance. The three judges, thus constituted, deal with questions of law, while questions of fact are decided by a jury of twelve citizens. The Courts of Assize have power to deal with criminal matters involving sentences of imprisonment for maximum terms of upwards of five years.

Above the foregoing jurisdictions is the *Cour de Cassation* (Supreme Court) which sits in Paris. This Court does not deal with questions of fact, but exclusively with questions of law. The Supreme Court's business, there-

fore, is to decide, in cases submitted, whether there has been committed by the inferior Court a misapplication or misinterpretation of the law, in which case the judgment of the latter Court is annulled and the case sent for fresh trial before another Court or tribunal.

The Supreme Court consists of three chambers, composed of fifteen judges each. Petitions (*pourvois*) are first examined by a special chamber (*Chambre des Enquêtes*) which either rejects or accepts them for hearing by the civil or the criminal chamber as the case may be.

861. Law Officers. In all cases before the Courts the State is represented by a corps of law officers known as the *Parquet* (Public Prosecution). In Courts of First Instance, these officers are styled *Avocats de la République*, and are under the directions of the *Procureur de la République*. The supreme chief of this legal corps is the *Procureur Général*. In the Court of Appeal and the Supreme Court the law officer appearing is styled *Avocat Général*.

For cases involving administrative or fiscal questions the Court of First Instance is the *Conseil de Préfecture*, and appeals against the decisions thereof are dealt with by the *Conseil d'Etat*.

Judicial Auxiliaries and Ministerial Officers. Whereas, in England, the field of legal practice is held almost exclusively by the barrister and the solicitor, in France there is a diversity of types of practitioners each of whom deals with his own speciality of practice.

The *Avocat*, for all practical purposes, corresponds to the barrister, such differences as exist being merely matters of custom and etiquette. In France, however, Barristers are of two classes. The first plead before all Courts save the Supreme Court, while the second only are admitted to plead before the *Cour de Cassation* and

the *Conseil d'Etat*, which, together, constitute the Supreme Court. *Avocats* of the Supreme Court purchase their offices or charges from the Government, to whom they are presented by their predecessors.

The title of *Avocat* is often assumed by persons not qualified to plead in Court, who style themselves *Avocats-Conseils*, and while many excellent and honourable practitioners exist under such title, some discernment is desirable as regards a number of persons whose methods and qualifications are not above question, notwithstanding the decree of 1920, which restricted the assumption of the title of *Avocat* for the future to members of the Bar (*Avocats a la Cour*).

The *Avoué* is often compared too loosely to a solicitor. His duties, in fact, are much more limited than those of the latter. He simply represents his client in matters of written procedure. It should also be remembered that there are *Avoués* of First Instance and *Avoués* of the Appeal Court.

The Notary (*Notaire*) enjoys a monopoly for the preparation and custody of certain authentic instruments such as wills, marriage contracts, mortgage loans, &c.

The *Huissier* executes judgments, delivers processes, summonses, legal notices, &c., and draws up statements or declarations which, in French procedure, correspond to affidavits in England.

The *Commissaire-Priseur* is a ministerial officer who carries out public auctions.

With the sole exception of the *Avocat à la Cour d'Appel* all the foregoing officers or practitioners purchase their offices or charges from the Government.

Attached to certain commercial tribunals there are, finally, specialists known as *Agréés*, who are legal practitioners specialising in commercial cases. They do not derive their offices from the Government, but their

number is limited to a total prescribed by the President of the *Tribunal de Commerce*. *Agréés* purchase their practices from their predecessors, by whom they are presented to the Commercial Courts.

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